



Susan Combs Texas Comptroller of Public Accounts

The Business Tax Advisory Committee

December
2010

Report to the 82nd Legislature

December 13, 2010

The Honorable Rick Perry
The Honorable David Dewhurst
The Honorable Joseph R. Straus, III
Members of the Texas Legislature

Fellow Texans:

I present herewith a copy of the second report of the Business Tax Advisory Committee as required by Tax Code §171.214(e). The report includes detailed tables that analyze the revised franchise tax by size and type of taxpayer, and also includes tables and analysis to demonstrate the fit between the franchise tax and the Texas economy. Unlike the first report of the committee, this report includes a discussion of relevant tax policy issues along with an analysis of revenue performance. More emphasis is placed in this report on whether the tax has performed as intended.

As in the previous report, an analysis is included of business taxes in other states, specifically those without a corporate income tax, and selected indicators as to the effect of the tax on economic development.

The report indicates that franchise tax liability increased for all sizes of taxpayers except the very smallest, and that the tax now reflects the economy more closely than it did before the margin calculation. The relative changes in tax burden by size of business and industry remain essentially unchanged from the previous report. The burden shifted moderately to firms at the middle of the size spectrum, while the share of tax paid by the very largest taxpayers remained nearly the same, and the tax share of the very smallest taxpayers declined as a share of tax payments.

I would like to thank all of the members of the committee, especially Sen. Steve Ogden, Sen. Kirk Watson, Rep. Warren Chisum and Rep. Myra Crownover whose participation on this committee is greatly appreciated. Also, the taxpayer and tax practitioner members of the committee were a tremendous source of expertise, and their patience and time with my staff proved invaluable to the development of this report.

My office will continue to monitor and analyze the franchise tax and produce a limited follow-up to this report in the early months of the 2011 session when reliable data from the 2010 franchise tax reports is available.

Sincerely,

Susan Combs



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The Business Tax Advisory Committee Report to the 82nd Texas Legislature

Introduction and Statutory Charge

In 2008, a substantial revision of the Texas business franchise tax became law. The revised tax, based on taxable margin for most taxpayers, was extended to most unincorporated businesses with liability protection actively engaged in business.

The Business Tax Advisory Committee was created by House Bill 3928, 80th Regular Session of the Texas Legislature, to conduct a biennial study of the effects of the revised franchise tax on businesses in this state. The results of each biennial study are to be reported to the governor, lieutenant governor, and speaker prior to each regular session of the Legislature through Jan. 31, 2013. This is the second report of the committee. Under the committee charge, found in §171.214 Tax Code, the committee is to evaluate the tax in terms of the following:

1. The relative share of the tax paid by industry and by size of business.
2. How the incidence of the tax compares with the economic makeup of this state's business economy.
3. How the tax compares in structure and in amounts paid to the business taxes imposed by other states.
4. The effect of the tax on the economic climate of this state, including the effect on capital investment and job creation.
5. Any factors that result in the tax not operating as intended.
6. Any other item presented by the Comptroller or by a majority of the committee.

This report of the Business Tax Advisory Committee (BTAC) to the 82nd Texas Legislature significantly changes the focus from the first report. A number of tables drawing from tax data are compiled by the Comptroller to address these tasks, but greater emphasis is placed on item 5: whether the tax is operating as intended — particularly as it relates to the revenue performance and the objectives of the committee.

Like the first report, a comparison of the tax on earned surplus (pre-margin tax) to the franchise tax on margin is included as the first section. In this case, the analysis is updated to include margin reports from the 2009 tax year. In short, that analysis is relatively unchanged.

The second section of the report revisits some of the issues relating to taxes in other states and how tax experts view the tax and the state for economic development purposes. In general, the situation has not changed markedly from the first report.

The final section of the report is new and concentrates on the performance of the tax and whether the tax is “operating as intended” as referenced in the statute forming the BTAC. The answer depends on how you analyze the question. If the tax was intended to start closing the loopholes that existed in the pre-margin tax base and to spread the burden of the tax in a manner that more closely mirrors the economy, then there is no question that the tax is operating as intended.

On the other hand, the tax was clearly intended to produce approximately \$6 billion per year, to be divided between general revenue and property tax relief, and to that extent it clearly has not operated as intended. It should be noted, though, that the new law generates substantially more tax revenue — nearly 50% more — than the pre-margin tax. The report details several factors that could have affected revenue performance relative to the original

estimate, including the prevailing difficulties in producing revenue from business taxes especially in the current recessionary economy. The report also discusses other relevant factors such as the larger than expected size of cost of goods sold (COGS), and the broader than expected applicability of other targeted provisions such as the half-percent rate, the EZ computation and the passive entity exclusion.

For several reasons, the report includes total tax for 2009. The report analyzes return data that totals **\$4.34 billion** in tax reported. This total represents the net tax liability of returns that were processed through mid-year 2010. This total reflects return data for the 2009 report year and shouldn't be confused with fiscal year numbers in other Comptroller reports. Return data for the 2010 report year will be nearly fully processed by early 2011. Updated versions of **Tables 1-5** will be made available to the governor and legislature during the early months of the 82nd Legislature. It is important to note that for the 2010 report year, the no tax due threshold was raised to \$1 million.

The total tax revenue of \$4.34 billion included in this report should not be confused with totals reported at the close of fiscal 2009 or any estimate of revenue produced by the Comptroller whether it was the Comptroller's Biennial Revenue Estimate (BRE) for the 2008-09 biennium, the followup certification estimate for the 2008-09 biennium, or the BRE for the 2010-11 biennium released in January 2009.

A particular challenge presents itself from the switch from separate entity reporting to combined reporting. In this analysis, a taxpayer's industry assignment is based on the NAICS code of the combined group as a whole, a group which in many instances will include a variety of separate entities that may be engaged in a number of different lines of business stretching across a number of industries.

Consequently, tax data assigned to a particular industry may include a substantial amount of tax generated from a combined company's activities in other industries. For example, an integrated oil and gas company may file as a combined group under "Refining," an industry within the manufacturing sector, though it may also include a substantial amount of revenue from oil and gas extraction (mining) and service stations (retail). This may generate certain unavoidable inconsistencies as the tax data are shown relative to the state's economic output by industry.

Combined reporting also creates challenges in offering comparisons to previous years' analyses of the old franchise tax. In previous years, each separate entity was assigned to a particular economic sector, as opposed to now being classified in the industry of their combined group. For example, the taxpayers from the previous paragraph would all be categorized as manufacturing for the pre-margin analysis in **Tables 6-10**.

To adjust for these inconsistencies, the 2007 data have been recalculated, assigning the separate entities to the appropriate industry of the combined group they filed with in 2009. While this provides a more accurate presentation of the changes from 2007 to 2009, it must be noted that the industry classifications presented here will not be consistent with any previous analyses of franchise tax by industry such as provided in the Comptroller's biennial tax incidence study.

Taxpayers will also have a higher level of receipts under combined reporting. For example, three affiliated businesses, each with \$400,000, would appear as three separate \$400,000 businesses under previous analyses, but would appear as a single entity with \$1.2 million in receipts in this report. Texas businesses in this analysis will appear to be, on average, larger than some previous studies have suggested again, not because of any structural change in the economy, but because of the method of combined reporting.

Finally, throughout this report the former tax base of earned surplus and taxable capital will be referred to as pre-margin. The current tax is referred to as the revised franchise tax on margin. The term "margin tax" is avoided because the tax is still referred to in statute as the franchise tax.

Members of the Business Tax Advisory Committee

Susan Combs, Chair	Comptroller of Public Accounts	Austin
Sen. Steve Ogden	Texas Senate	Bryan
Sen. Kirk Watson	Texas Senate	Austin
Rep. Warren Chisum	Texas House of Representatives	Pampa
Rep. Myra Crownover	Texas House of Representatives	Denton
Sano Blocker	Energy Future Holdings	Dallas
Lynn Chilton	Bank of America	Charlotte, NC
Dale Craymer	TTARA	Austin
Eric Donaldson	Hot Shot Delivery	Houston
Bill Dvorak	AT&T	Austin
Andy Ellard	Manda Machine Co.	Dallas
Edward P. Futterer	ExxonMobil	Houston
David Gilliland	Clark, Thomas & Winters	Austin
Dan Hagan	American Airlines	Fort Worth
Joe Mack Hilliard	Fencing Incorporated	Corpus Christi
Judy Kilgore	Pilgrim's Pride Corporation	Pittsburg, Texas
Judy Lindquist	HEB	San Antonio
Emily Parrino	Dell	Round Rock
Doug Rabe	Tenet Healthcare	Dallas
Donna Rutter	Hartman, Leito & Bolt	Fort Worth
Louise Trotter	Kellogg, Brown and Root	Houston

SECTION 1: Comparison of Pre-Margin Tax to the Franchise Tax on Margin

Approximately \$4.5 billion in franchise tax was collected by the close of the 2008 fiscal year in August 2008. This was about \$1.4 billion *below* the official revenue estimate of \$5.9 billion, but \$1.4 billion *above* the amount of franchise taxes paid in fiscal year 2007. When all the reports had been finally processed and overpayment refunds made, the total tax liability for the 2008 report year was \$4.1 billion. This figure includes the net revenue after refunds for all reports received during May, August and November 2008. These reports include parts of fiscal years 2008 and 2009. For fiscal year 2009, total collections for the franchise tax were \$4.3 billion. The estimated collections for fiscal year 2009 in the 2010-2011 Biennial Revenue Estimate was \$4.4 billion. Exhibit 1 compares fiscal and report year revenue for years 2007-2010.

Exhibit 1—2007-2010 Fiscal and Report Year Revenue (\$billions)

Year	Fiscal Year	Percent Change	Report Year	Percent Change
2007	\$3.1	20.7	\$3.0	16.8
2008	\$4.5	41.6	\$4.1	38.2
2009	\$4.3	(4.5)	\$4.3	5.8
2010	\$3.9	(9.3)	--*	--

*Available early 2011

The data in **Tables 1-10** that analyzes taxpayers by size and industry are based on report year data. For example, the tax liability shown on 2009 reports and displayed in Table 1 of this document was \$4.3 billion, while the tax liability shown on 2007 pre-margin reports in Table 6 was \$3.0 billion.

The following analyzes the data found in **Tables 1-10**. **Tables 1-5** analyze the tax on margin, while **Tables 6-10** present the same data for the pre-margin levy. Note that the analysis will at times move between corresponding tables such as **Tables 1 and 6**, **2 and 7**, etc.

Tables 1-5 include a detailed analysis of the tax based on the first two parts of the committee's statutory charge relating first to tax paid by industry as well as size of business and second to how tax paid by industry compares to each industry's share of the economy.

These tables italicize industries that predominately use the cost of goods sold (COGS) deduction and include an asterisk by those using the half percent tax rate. These are intended as general designations only.

Based on the reports filed and verified, Texas taxpayers paid a total of \$4.34 billion for report year 2009 under the revised franchise tax on margin — a 46 percent increase over the \$2.97 billion paid under the pre-margin tax in report year 2007, and a 6 percent increase over the \$4.1 billion paid in the first year under the revised franchise tax.

Table 1 shows the actual amount of tax liability by industry and by size of firm based on total revenue for 2009. The comparison table for the pre-margin tax is **Table 6**. State revenue from the franchise tax increased by 46 percent under the new margin calculation. Though some industries saw larger increases, others saw lesser increases. Three industries — mining, agriculture and wholesale trade experienced an actual decline in franchise tax paid in 2009 compared to 2007. A number of industries, including air, truck, water and other transportation, telecommunications, real estate, waste management, health services, arts, entertainment and recreation, and accommodation experienced a more than doubling of their tax liability. In most cases, shifts of tax among the industries reflect the

movement toward a more representative share of each industry's contributions to the state economy and follow the intent to share the burden of the tax in a way that more closely mirrors the economy.

Taxes paid by businesses with less than \$500,000 in total receipts fell by 94 percent under the new tax. This decline reflects the enhanced small business exemption under the new tax. Businesses reporting \$500,000 to \$1 million in total receipts saw an increase of 12.5 percent. Note that taxpayers with less than \$1 million in total receipts will pay no tax for years 2010 and 2011. Increases for other businesses ranged from 55.5 percent for businesses with \$1 million to \$1 billion in total receipts, 45.1 percent for firms with \$1 billion to \$10 billion in total receipts and 51.4 percent for businesses with more than \$10 billion in total receipts.

Table 2 shows the relative share of tax paid by industry and by size of business. The table shows that most of the tax is paid by the manufacturing, mining, wholesale and retail trade and professional services industries. The table also shows that slightly more than 50 percent of the tax is paid by companies that have more than \$1 billion in gross receipts.

Compared to **Table 7**, which shows the share of the pre-margin tax by industry, approximately 13 percent of the tax burden shifted away from mining, wholesale trade, manufacturing and financial activity and was picked up by the professional and health services sectors along with real estate, telecommunications and retail trade. The telecommunications industry added the highest percentage of tax liability at 2.3 percent. In other words, the industries with reduced share of tax moved closer to their share of the economy as did those that experienced an increase in share.

Table 3 shows the number of taxpayers sorted by their amount of receipts category. The real estate industry had the most taxpayers at 154,353, while the rail transportation industry had the fewest at 57. The receipts category with the highest number of businesses was receipts range \$0-\$500,000 at 635,104. A comparison of the same analysis for the pre-margin tax in **Table 8** shows that the franchise tax based on margin added 71,539 taxpayers in the real estate industry, and 23,782 in the health services sector, the two largest additions of taxpayers paying the Texas franchise tax.

Table 4 provides a comparison of tax paid by industry to gross state product (GSP) by industry. It should be noted that there may be substantial differences between how the Comptroller determines tax liability by industry and how the U.S. Bureau of Economic Analysis determines gross state product for that industry. In addition, comparisons of an industry's tax liability to its share of the economy are inconsistent to the extent that the corresponding GSP includes businesses such as not-for-profit enterprises and sole proprietorships that are either exempt from or not subject to the franchise tax on margin. For example, in the health services sector a significant share of GSP is generated by not-for-profit healthcare enterprises. Nonetheless, **Table 4** helps provide some general insight as to how the relative share of tax paid relates to the share of the economy. The table reveals that the warehousing, utilities, arts and entertainment and wholesale trade sectors pay closest to their share of the economy.

The management of companies sector pays by far the most tax compared to its share of the economy, probably because these are generally holding companies that likely include many affiliates. This variance may also, however, be attributed to different categorization approaches taken by the Bureau of Economic Analysis and the Comptroller's office. For Texas tax purposes, the reporting entity of a combined group may be a management company, though the combined group may contain a number of entities actively engaged in other lines of business.

Other sectors paying more franchise tax than their share of the economy include manufacturing, retail trade, publishing and data processing, telecommunications, financial services, professional services, management of companies, waste management services and accommodation. Sectors paying less than their share of the economy include mining, construction, real estate, health services, air and rail transportation, food services and agriculture. The table also includes a 10-year forecast of job growth for each sector and net profits as a percent of receipts. Additional

analysis of this data reveals that some industries such as retail trade have relatively low profit margins, but still pay more tax than their share of the economy in spite of the half percent tax rate. Also, industries such as mining make substantial payments of other taxes including oil and gas severance.

Table 9 includes *comparable* data to **Table 4** except that it is for the pre-margin base. A comparison of **Table 9** and **Table 4** shows that on a relative basis, the most tax was shifted *to* the telecommunications industry, while the most tax was shifted *from* the mining industry. Note that the shift from mining (\$40.1 million) was significantly smaller than the shift to telecommunications (\$119.9 million).

Table 5 shows the revised franchise tax on margin liability as a percentage of total receipts from business in Texas. This table relates to **Table 10** that shows comparable data for the pre-margin tax liability as a percentage of gross Texas receipts. These tables reveal that the revised franchise tax on margin increased the effective tax rate on businesses from 0.16 percent to 0.18 percent relative to their Texas receipts.

Another observation from **Tables 5** and **10** is that the effective gross receipts rate on the very smallest taxpayers, those with less than \$500,000 of Texas gross receipts or total revenue, decreased significantly from 0.38 percent to 0.03 percent, while the effective rate on the very largest taxpayers, those with over \$10 billion in gross receipts or total revenue, increased from 0.10 percent to 0.12 percent. At the same time, the effective rate on most taxpayers in the middle ranges increased, and these increases began at a fairly modest level of total revenue or gross receipts of only \$1 million.

Table 5 also reveals that tax liability as a percentage of total revenue varies from 0.10 percent for wholesale trade to 0.66 percent for rail transportation. The low effective rates for wholesale and retail trade are due in part to their receiving a 0.5 percent tax rate. The rationale for this is shown in the last column of **Table 4**, which shows wholesale and retail trade having the two lowest percentages of net profit as a portion of receipts among the industries analyzed in this report.

The data also indicates that the effective tax rate on gross receipts, with the exception of taxpayers with less than \$500,000 in receipts, demonstrates a greater variance across industries than it does by size of taxpayer as measured by gross receipts.

As referenced above, the relevant data for the franchise tax as it existed before the margin tax base are presented in **Tables 6-10**. The pre-margin franchise tax was paid by corporations and limited liability companies (LLCs) while the tax on margin is owed by nearly all forms of businesses except sole proprietors.

A comparison of **Tables 1-5** for the revised franchise tax on margin, and **Tables 6-10** which include the same data for the pre-margin franchise tax, is found in **Table 11**. Highlights from **Tables 1-11** include:

- More than **82 percent** of the tax was paid by firms with more than \$10 million in gross receipts under the pre-margin franchise tax. That percentage increased to more than **84 percent** under the margin calculation.
- More than **61 percent** of the tax was paid by taxpayers that had over \$250 million in gross receipts under the pre-margin franchise tax. That percentage increased to more than **62 percent** under the margin calculation.
- Nearly **33 percent** of the tax was paid by taxpayers that reported between \$1 million and \$250 million in gross receipts under the pre-margin franchise tax, increasing to more than **35 percent** under the margin calculation.
- Under the pre-margin tax, the sector paying the largest share of the tax was manufacturing, accounting for more than 18 percent of the tax. Nearly half of the tax (46.5 percent) was paid by three industries: manufacturing, mining and wholesale trade. Under the revised franchise tax on margin, the manufacturing sector

now pays the most at just more than 17 percent of the tax, and the tax is more evenly distributed among industry sectors.

- Under the pre-margin tax, among industries that had more than a 5 percent share of GSP, the share of tax paid by the mining, manufacturing, wholesale trade, health services and real estate sectors were most different from their share of the economy. Mining, manufacturing and wholesale trade paid a significantly higher share of the tax than their share of the economy, while health services and real estate paid significantly less than their share of the economy.
- **Under the pre-margin tax, seven out of 26 industry groups analyzed for this report contributed more as a percentage of total tax than their percentage of GSP, collectively generating 45.7 percent of GSP but paying 64.8 percent of the tax for a disparity of more than 19 percent. Wholesale trade, manufacturing, and mining represented the bulk of that disparity. The other 19 industry groups each contributed less as a percentage of total tax than their percentage of total GSP.**
- **Under the revised franchise tax on margin, 11 of 26 industry groups paid more tax than their percentage of the economy, but the disparities were much less pronounced, indicating the tax more closely mirrors the economy. These 11 industries contributed 62.3 percent of the tax, but accounted for 49.3 percent of GSP for a more modest disparity of 13 percent.**
- Under the revised franchise tax on margin, among industries that had more than a 5 percent share of GSP, only the manufacturing industry could be said to have tax liabilities that were more than 2 percent higher than their share of the economy. Under the pre-margin tax, there were five major industries that paid significantly more or less than their share of the economy. Mining, manufacturing and wholesale trade paid more and real estate and health services paid less.

Analysis of **Tables 1, 2, 6** and **7** shows that under the pre-margin tax, 74 percent of the taxpayers had gross receipts of less than \$500,000, and these taxpayers accounted for 3 percent of the tax. Under the revised franchise tax on margin, taxpayers with gross receipts less than \$500,000 now represent 76 percent of taxpayers and pay only 0.1 percent of the tax.

Table 6 shows that under the pre-margin tax, slightly less than 14 percent of the tax was paid by manufacturers that had more than \$250 million in gross receipts. **Table 1** shows that this percentage has increased slightly to just more than 14 percent. The largest similar category is mining sector firms with over \$250 million in receipts, whose share of total tax payments decreased from just less than 14 percent of all tax payments to just more than 8 percent under the revised franchise tax on margin.

The shifts in percent of tax borne by the mining and wholesale sectors and from the very largest businesses were likely influenced by broadening the tax to additional unincorporated entities, instituting combined reporting, and repealing the throwback provision, which likely helped some retailers and manufacturers. **Also of note is that for the largest businesses with more than \$10 billion in total revenue, the share of the tax went up from 26 to 27.7 percent, as their tax liability increased from \$773 million to just over \$1.1 billion, and their tax as a percentage of gross receipts or total revenue increased from 0.10 percent to 0.12 percent.**

On the other hand, the combined effects of the \$300,000 exclusion for total revenue, the no tax due provision for liabilities less than \$1,000, the EZ calculation for taxpayers with \$10 million or less in total revenue and the percentage reduction for taxpayers with less than \$900,000 in total revenue significantly reduced the tax burden of the very smallest taxpayers. This did not mean, however, that small to medium size businesses were not affected by the tax. As a comparison of **Tables 2** and **7** shows, the effects of these provisions began to decrease as total revenue exceeded \$500,000 and actually reversed for taxpayers with between \$1 million and \$250 million in total revenue as their percentage of tax paid increased compared to the pre-margin tax. As noted above, the percentage of tax paid was higher for the largest taxpayer group. It was also higher for taxpayers in the \$1 billion to \$5 billion total revenue range.

As noted previously, an important factor in determining how well the tax is performing compared to the economy is an evaluation of how the percentage of franchise tax paid, both before and after the margin tax base, compares to each industry's share of the economy.

Table 11 and **Chart 1** demonstrate that the revised franchise tax on margin maps the economy much more closely than the pre-margin tax did. As noted above, the ideal of half of industries paying slightly more than their share and half paying slightly less was achieved with the revised franchise tax on margin. The increase from seven to 11 industries paying more than their share represented a much reduced disparity as the 11 industries collectively pay 13 percent more than their share of GSP, while the seven from the previous tax collectively paid more than 19 percent more than their share of GSP.

Table 11 also points out that on average an industry pays nearly within one percent of its share of GSP. This percentage is down from more than 1.5 percent before the margin calculation. This represents more than a 31 percent improvement in how well the tax maps the economy. Using a weighted average that adjusts for relative size of industries, the improvement was even more impressive with a 38 percent improvement, from a 2.8 percent difference down to a 1.7 percent difference.

SECTION 2: Economic and Interstate Analysis

The committee looked at all U.S. states as a group to see how the taxes businesses in Texas pay compares to those in other states. In **Table 12**, the committee looked at general business taxes such as corporate income taxes and corporate and partnership licensing fees. These help to provide a direct comparison of the franchise tax to the general business taxes in other states. In addition to these general business taxes and fees, however, businesses also pay sales, property and other taxes. **Table 13** provides a more comprehensive look at the overall tax liability businesses face among the most populous states and how Texas compares. The information in **Tables 12 and 13** are taken from Ernst & Young's *Total State and Local Business Taxes* report published in March 2010.

As shown in **Table 12**, most states levy a corporate income tax, with rates that range from as low as 1 percent (Alaska, Arkansas) to as high as 12 percent (Iowa). On average, these states rely on the corporate income tax to produce 5.6% of their tax revenue. States also levy other taxes, such as corporate license taxes, directly on business, and an increasing number of states now levy minimum taxes based on gross receipts.

When simply focusing on the states' revenues from the corporate income tax and other direct state-levied business taxes such as the revised Texas franchise tax, we see that only eight states show that their state-levied business taxes increased as a percentage of total taxes collected over the period fiscal 2007 to fiscal 2009. Of these eight states, the ones with the largest percentage increases were Texas and Michigan, at 2.5 percent and 3.2 percent respectively. Michigan recently added a gross receipts tax component to its tax structure. Before revising the franchise tax, Texas relied on its general business tax for about the same percentage of state tax revenue as the average state at about 10 percent. It was anticipated that this percentage would increase to just less than 15 percent because the franchise tax levied on margin would include new taxpayers not previously subject to the tax. The actual Texas percentage for fiscal 2009 is 12.4 percent, while the all-state average dropped slightly to 9.5 percent.

The following items compare the contribution of different types of business taxes to total business taxes for the U.S. and for Texas. The first set of bullet points are for the U.S. They also highlight changes in these numbers between fiscal 2007 and fiscal 2009.

- Total business taxes collected in the United States increased from \$577.5 billion in fiscal 2007 to \$590 billion in fiscal 2009.
- Property and sales tax together are the largest component of business taxes, accounting for 58 percent of total business tax paid in both fiscal 2007 and in fiscal 2009.
- The contribution of corporate income and license taxes over this same period fell slightly from 19.8 percent to 19.3 percent.
- The contribution from all other business taxes, which include **excise, unemployment insurance and severance taxes**, rose from 22.2 percent to 22.7 percent.
- These percentages for the ten most populous states were similar to those of all the states.

By comparison, **Texas** shows a slightly different pattern in the contributions of the different business taxes to its total business taxes.

- Total Texas business taxes also increased during this period from \$47.9 billion in fiscal 2007 to \$53.8 billion in fiscal 2009, an increase of \$5.9 billion.

- Property tax contributed \$4.7 billion to the increase, sales tax \$0.4 billion, and franchise/other business license taxes contributed \$1.6 billion. Excise and unemployment taxes decreased by a combined \$0.8 billion to bring the net increase to \$5.9 billion.
- As a percentage of total business taxes, the contribution of the property and sales tax component climbed from 66.8 percent to 69 percent — a much larger figure than the 58 percent for the U.S. in both years.
- Looking at the Texas changes in each tax component as a percentage of total business taxes, the property tax component increased from 38.4 percent to 42.9 percent, the sales tax component fell from 28.4 percent to 26 percent, the franchise tax/business license tax component rose from 15.9 percent to 17.1 percent, and other business taxes (e.g. excise, unemployment insurance and severance) fell from 17.3 percent to 13.9 percent.

These figures confirm the impression of many Texas businesses that property tax rates and values continued to increase after the initial relief passed in conjunction with the changes in the Texas franchise tax. They also show that the corporate income/franchise/license tax component increased 1.2 percent to a 17.1 percent share of all Texas business taxes in fiscal 2009, while compared to the U.S., this component declined 0.5 percent to 19.3 percent. The national trend is for corporate and business license taxes to account for a lesser share of total business taxes, while in Texas, they make up an increasing share.

The Ernst & Young report also compares taxes relative to the amount of economic activity in a state by expressing a state's total business taxes and its total taxes as a percentage of its Gross State Product (GSP), the total value of a state's annual production of goods and services by the private sector. The result is two metrics for state economic activity that then can be used to compare cross-state competitiveness. Note that since these percentages represent an estimated tax burden measure on business activity by state and local governments, a lower percentage increases a state's ranking in terms of business tax competitiveness. The bullet points below include data for other states and comparisons to Texas.

- For fiscal 2009, business tax revenues as a percentage of GSP ranged from 3.5 percent for Delaware, North Carolina and Oregon to 13.8 percent for Alaska.
- Texas is at 4.9 percent—0.2 percent above the all-state average of 4.7 percent placing it 29th in an all-state ranking.
- In fiscal 2007, Texas' percent was the same as the all-state average of 5 percent.
- When Texas is compared to the 10 most populous states, it ranks 6 out of 10. (See **Table 13**)
- However, when total tax revenues as a percent of GSP is used as the metric, Texas continues to have the second-lowest tax burden, just behind Delaware, and ranks first when compared to the 10 most populous states. (See **Table 13**)

In sum, Texas businesses pays a higher percentage of all taxes than businesses in most other states, but because total taxes are relatively low in Texas compared to other states, the Texas business tax burden as a percentage of GSP in 2009 is very consistent with the burden in other states and only slightly higher than the 50-state average of 4.7 percent, at 4.9 percent.

Chart 2 shows that the great majority of business tax increases in both the U.S. and Texas from 2007 to 2009 was attributable to property taxes.

To help give perspective to the percentages above **Charts 3 and 4** show in the form of pie charts the breakout of state and local taxes for the U.S. and Texas by dollar amount for fiscal year 2009. The full report from Ernst & Young can be found at: <http://www.cost.org/Page.aspx?id=69654>.

Table 14 shows the District of Columbia and nine states, including Texas, that have general business taxes, some in addition to and others in place of, a corporate income tax. Common traits among most of these states include a

tax base other than corporate income and imposition of the tax on both corporations and other business entities. These states offer varying levels of relief for small taxpayers that take various forms from exemptions based on gross receipts to tax credits. Some states also have a business license fee or flat minimum tax to ensure that every business pays some amount for the privilege of operating in the state.

The Texas franchise tax revenue as a percentage of total Texas tax revenue increased from fiscal 2007 to fiscal 2009. Only four other states show that their general business taxes as a percentage of all tax revenue grew from fiscal 2007 to fiscal 2009. These states, Delaware, Washington, Michigan and Ohio, all have some form of gross receipts tax as their principal general business tax. Two of these, Michigan and Ohio, are similar to Texas in that they recently overhauled their general business taxes.

New Jersey and Kentucky have minimum taxes that function as components of their corporate income taxes. New Jersey uses a flat levy based on volume of gross receipts, while Kentucky levies a tax on a broad range of entities based on gross receipts or gross profits.

Delaware has a gross receipts tax with rates varying from 0.1037 to 2.0736 percent depending on business activity. Similarly, in the state of Washington, a gross receipts tax called the business and occupation tax is levied at various rates ranging from 0.13 through 3.3 percent, with the rates determined by a business' primary activity (retailing, wholesaling, manufacturing or service and other activities).

In 2008, Michigan replaced its single business tax with a 4.95 percent business income tax and a 0.80 percent modified gross receipts tax, with the taxpayer paying the sum of the two taxes. New Hampshire imposes both an income tax, the business profits tax (BPT), at 8.5 percent and a modified additive value added tax, the business enterprise tax (BET), at 0.75 percent.

Ohio imposes a commercial activity tax (CAT) on businesses' gross receipts, which was phased in to replace the state's corporate income tax over a five-year period from 2005 through 2009, with the permanent rate now set at 0.26 percent.

In addition to its corporate tax, Kentucky also has an annual limited liability tax (ALLT) that is the lesser of 0.95 percent of gross receipts or 7.5 percent of profits. Most corporations and unincorporated entities with liability shields are subject to the ALLT.

Tennessee levies franchise and excise taxes of \$0.25 per \$100 of the greater of net worth or real and tangible personal property, and 6.5 percent of net income. The tax is levied on most businesses except sole proprietors.

Another factor to consider is how much these states rely on these taxes. The average (New Jersey is excluded because its minimum tax is not accounted for separately) is 9.6 percent, slightly more than the 9.5 percent average for reliance on direct business taxes among all the states. Texas joins New Hampshire, Tennessee and Washington as states that rely on such a levy for more than 11 percent of its state revenue.

Table 15 is an interstate comparison of combined reporting requirements, the use of throwback provisions, nexus standards and apportionment formulas. States use various combinations of these elements to structure their tax systems to capture income taxable in their state and to provide tax incentives. For instance, changes in the choice of *Joyce* or *Finnigan* and the use of single-factor sales apportionment contribute to a recent trend in state taxation that looks to increase the tax on out-of-state taxpayers while being neutral to or benefiting in-state taxpayers.

Since the publication of *The Business Tax Advisory Committee* (BTAC) Report to the 81st Texas Legislature, two more states, Massachusetts and Wisconsin, have adopted combined reporting, bringing to 23 the total number of states, including Texas, which have mandatory combined reporting requirements. Twelve other states either require or permit a combined report under certain conditions. The most common reason to require a combined report is to more clearly reflect the state from which income was derived.

Twenty-three states have throwback provisions. Throwback attributes income to the state where a sale originates when the taxpayer does not have nexus in the destination state. Sixteen states, up from 14 two years ago, have both combined reporting and throwback. Seven, including Texas, have combined reporting and no throwback provision. Both combined reporting and throwback can be a state's response to tax avoidance techniques such as the use of subsidiaries and fees for intangibles that exist more frequently in separate entity states. Another approach to the issue of tax avoidance is to require add-backs of expense to affiliated entities that do not have nexus. There are 21 states that use some form of intangible expense add-back.

Joyce and *Finnigan*, two California court cases, refer to two different ways of calculating the apportionment sales factor in a combined group report. The committee takes no position on the merits of either *Joyce* or *Finnigan* as a method of calculating apportionment, but presents the following as background information on these approaches. Most states use the *Joyce* approach, which does not include in the numerator of the apportionment formula in-state receipts from affiliated entities that do not have nexus in the state on a separate entity basis. The alternative *Finnigan* approach establishes nexus for the whole combined group if one entity has nexus. *Finnigan* places more receipts in the numerator but makes it easier for firms to avoid throwback by establishing nexus in other states.

Of the 23 combined reporting states, 16 use *Joyce* and seven use *Finnigan*, an increase of one each since the last BTAC report. Of the 16 states that have combined reporting and a throwback provision, only four use the *Finnigan* approach. On the other hand, three of the seven states that have combined reporting and no throwback use *Finnigan*. Texas, a state with combined reporting and no throwback, continues to use *Joyce*. However, it is interesting to note that in New York, a *Joyce* state like Texas with combined reporting and no throwback, a 2008 state appellate court case used *Finnigan* as a basis for its decision. California, however, probably best illustrates the state of affairs surrounding these two approaches. California followed *Joyce* for more than 20 years until the *Finnigan* decision in 1988. Then in 2000 it adopted regulations returning to the *Joyce* approach. Now, for tax years beginning on or after Jan. 1, 2011, California will again follow *Finnigan*.

The following example will illustrate the difference between *Joyce* and *Finnigan*. Assume a combined group has two entities. Entity 1 is a manufacturing facility in Texas that makes shoelaces and only has nexus in Texas. Entity 2 makes shoes in California and sells them in all 50 states. It has nexus in the other 49 states, but it does not have nexus in Texas. Using the *Joyce* method, only Entity 1's sales to Texas are apportioned to Texas. Entity 2's sales to Texas are not apportioned to Texas because, on a separate entity basis, they don't have nexus in Texas. However, all of Entity 2's sales are included in the tax base and in the denominator of the apportionment formula. All of Entity 1's sales are included in the tax base and in the denominator of the apportionment formula. Using the *Finnigan* method, all of Entity 1's and 2's sales to Texas would be included in the numerator of the apportionment formula, because the combined group is considered one entity for nexus purposes and Entity 1 has nexus in Texas.

The *Finnigan* approach is frequently subject to lawsuits on the grounds that states using this method cannot legally include in the numerator the receipts of entities that do not have nexus in the state. In the example above, Entity 2 has no employees and uses no services in the taxing state and thus could be said to have insufficient connection to the state to warrant the inclusion of their receipts in the numerator of the taxing state's apportionment formula. *Joyce* can also be subject to challenge based on its impact on throwback. Texas's repeal of throwback was designed to increase the attractiveness of the state for companies that sell from Texas to other states and countries.

Apportionment policy across the states continues to place a greater emphasis on the sales factor, with 36 of 46 states employing an apportionment factor that relies at least 50 percent on sales as opposed to property or payroll, an increase of one state since the last report. Of the 36 states that have 50 percent or more sales factor, 19 are either phasing in or currently using only the sales factor. Only 10 states still use the traditional three-factor formula with equal weighting to property, payroll and sales. California's recent tax law changes will now permit the elective use for certain taxpayers of single-factor sales apportionment.

The 19 states with 100 percent sales factor, either currently or planned, are: Arizona, Connecticut, Georgia, Iowa, Illinois, Indiana (1/2011), Kentucky, Maine, Michigan, Minnesota (1/2014), Mississippi, Nebraska, New York, Ohio (effective with CAT phase-in), Oregon, South Carolina, Texas, Vermont (1/2009), and Wisconsin. As with the repeal of throwback, Texas' use of single-factor apportionment tends to shift the relative share of franchise tax burden from in-state businesses to out-of-state businesses that sell into Texas.

Table 16 shows Texas' ranking in various indexes both before (2007) and after (2008 and 2009) the passage of the revised franchise tax, though even these rankings may not reflect the actual liability of the tax. Texas' rankings may change in subsequent years as the data used by the evaluators include the effect of the margin calculation and of the property tax relief initiative.

Site Selection Magazine continues to rank Texas at No. 2. Rankings are based half on a survey of corporate executive site seekers and half on new plants or expansions adjusted for population and physical size of the state.

The Tax Foundation's *State Business Climate Index* is a tool to evaluate which states' tax systems are the most hospitable to business and economic growth. The taxes considered are weighted in the following order: personal income tax, sales tax, corporate income tax, property tax and unemployment taxes. Texas' ranking continues its downward trend from sixth place before enactment of the revised franchise tax, to eighth after its enactment, to eleventh in 2009.

Although the revised franchise tax might be a factor in the state's moving out of this survey's top ten, a closer analysis of the study's corporate tax component reveals its data included the fact that the franchise tax still had throwback rules. Throwback was repealed as part of the revised franchise tax legislation. Since the study cites throwback rules as an additional layer of tax complexity, it will be interesting to see if Texas' ranking is affected when this error is corrected. In discussing the disadvantages of gross receipts taxes, The Tax Foundation points out that their effects can be mitigated by permitting deductions for employee compensation and cost of goods sold. They specifically mention that Texas allows a deduction for either employee compensation or cost of goods sold.

Texas' ranking continues its upward trend, going from 11th to ninth to third, in the *Small Business Survival Index* published by the Small Business and Entrepreneurship Council. This index emphasizes the importance of investment and economic risk-taking in driving the economy. The index includes 31 "government-imposed or government-related" costs that affect investment. Among the tax factors used in the assessment are state personal and corporate income tax rates as measured by a tax's highest rate. Sales, gross receipts and property taxes are included in the index as a percentage of personal income.

Texas' ranking went up from 22nd to 20th after enactment of the revised franchise tax but has since fallen to 24th in the Beacon Hill Institute's *Metro Area and State Competitiveness Report*. This report attempts to quantify competitiveness by aggregating key microeconomic variables into a single index. The seven areas measured are government and fiscal policy, security, infrastructure, human resources, technology, business incubation, openness and environmental policy. Texas ranked 27th in the government and fiscal policy category, of which the franchise tax and property tax relief are a part. Its principal competitive advantage in this area was its favorable state and local taxes-per-capita score.

The Cato Institute continues to give Texas a B in its *Fiscal Policy Report Card on America's Governors*. The report card specifically mentioned that the revised franchise tax on margin (described as a gross receipts tax) was a negative factor offsetting the positive factor of property tax relief. The actual quantitative factors used in the study relate to changes in state spending and tax revenue as well as tax rates. It was expected that Texas could suffer under this index as school funding was shifted to the state in conjunction with the passage of HB3; however, to date its score remains the same.

Added to the table this year is *The State New Economy Index*, published by the Kauffman Foundation, which measures outputs such as number of knowledge and information jobs rather than inputs such as taxes. Texas ranked third on this index in 2007 and second in 2008. Texas excelled in the areas of globalization and export focus of its manufacturing and services.

SECTION 3: Observations

Revenue Underperformance: Challenges of Using a Business Tax as a Revenue Source

The franchise tax on margin was developed in 2006 after a decade of analysis, study and multiple proposals considered by the Legislature. Broadening the scope and application of the franchise tax was a primary goal that led to the enactment of the franchise tax on margin. The revenue performance of the tax on margin during its first three years as compared to the last three years of the pre-margin tax is shown in **Table 17**. The table shows that revenue from the tax on margin began in **fiscal 2008 and produced \$4.45 billion**. This was significantly **below the original estimate of \$5.9 billion**. **Revenue from the tax has since declined to \$3.86 billion in fiscal 2010** such that it is nearly the same percentage of gross state product that the pre-margin tax was in its last year. This comparison must include a note that the effects of the recession played a significant part in the poor performance of the tax and likely accounted for virtually all of the decline in tax collections from fiscal 2008 to 2010. **By way of comparison, the Comptroller estimates that the pre-margin tax would have produced only about \$2.6 billion in fiscal 2010.**

Another way of looking at this is to note that in Exhibit 2 the original estimate of revenue from the tax anticipated \$6.4 billion by fiscal 2010, but actual revenue was \$3.9 billion. Of the \$2.5 billion difference, approximately \$1 billion was likely caused by the recession and \$1.5 billion by the tax underperforming compared to estimate.

Table 17 also shows that revenue from the franchise tax in the three years before the switch to the margin base was about eight percent of all tax collections on average. This is consistent with the historical percentage for the tax. For perspective, the tax produced 8.7 percent of total tax revenue in fiscal 1999.

The revised franchise tax on margin as passed by the Legislature in 2006 is, in concept, fairly simple. The tax base is total revenue reduced by one of three amounts: cost of goods sold, compensation or a minimum deduction of 30 percent of revenue. However, as is the normal case for major tax legislation, additional provisions and complexity were introduced in order to mitigate the impacts on certain groups of businesses. Smaller businesses benefited from several provisions including relief of all liability if total revenue is below a threshold (\$1 million in 2010 and 2011, \$600,000 in 2012 and beyond). In addition, discounts off tax due will be available in 2013 and beyond if total revenue is less than \$900,000. Businesses with under \$10 million in total revenue can use a larger minimum deduction – effectively 42.5 percent rather than 30 percent. Another group of businesses engaged in trade (wholesale or retail) are taxed at a rate that is half that applied to other businesses in acknowledgment of the very low rates of profit that are normal for those industries. This provision required a fairly complex definition of who qualifies for the lower rate. Provisions specifying which businesses can use cost of goods sold for their deduction, and which businesses cannot, also add complexity to the tax.

Complexity in the law is more than matched by the complexity of business models. Many businesses encompass multiple activities that cross over the traditional lines of production, trade, and services. How a particular business model fits up to the tax provisions can be a difficult call. The likely impact on tax revenue when complex tax provisions meet up with complex business models is that it will fall short of estimates if those estimates were based on traditional business models.

The tax was developed to achieve the following three main goals by implementing a broadly based, low rate tax:

1. To raise revenue for property tax relief.
2. To eliminate some tax planning opportunities.
3. To make the franchise tax better reflect the current economy.

The **first goal**, raising revenue to provide property tax relief, has been much less successfully met than the other two. When the Legislature decided to make the state's business tax the principal revenue source for paying down property tax rates, it faced several challenges. One of the challenges related to addressing tax planning issues, as mentioned above. A second challenge was to produce a substantial (100 percent) increase in the business tax in an environment in which business taxes, particularly corporate income taxes, have been declining in importance in most states. They made up 10.2 percent of all state tax collections in 1979 but just 5.6 percent in 2009. If the initial projections for the franchise tax had been met, the tax would have produced more than 15 percent of state tax revenue or nearly three times the share for other states. Exhibit 2 shows how the tax has compared to various Comptroller estimates since its passage in 2006.

Exhibit 2—Estimated and Actual Revenue for Franchise Tax on Margin (\$ billions)

Fiscal Year	Original HB 3 Fiscal Note Estimate	2010-11 Biennial Revenue Estimate	Actual Revenue
2008	\$5.9	NA	\$4.5
2009	\$6.0	\$4.4	\$4.3
2010	\$6.4	\$4.4	\$3.9

Regarding the **second goal** of reducing the impacts of tax planning, the revamped franchise tax made progress on two fronts. First, businesses can no longer avoid the tax by **restructuring** into a non-corporate form, such as a limited partnership, that retains liability protection for owners. Thousands of additional entities have been brought into the tax and these taxpayers contribute a significant 16 percent share of the tax. A second issue addressed is **transfer pricing**. This refers to transactions between related parties that are not at arms' length. Because the Texas franchise tax had been based on a separate entity concept, the Texas entity could sell an item to a related entity not subject to Texas franchise tax at a low price and, thereby, reduce its earned surplus. The revised franchise tax uses combined reporting and a broader tax base which help alleviate this concern. Another issue addressed by combined reporting was Geoffrey's arrangements where taxpayers were able to reduce their tax considerably by making large payments for intangibles to out-of-state affiliates. Finally, many non-publicly traded corporations were frequently able to minimize tax under the pre-margin base by paying out profits as compensation.

The margin base does still offer a limited number of tax planning opportunities. The **location of payor** rule for intangibles is a long-standing Comptroller policy that helps encourage firms to locate headquarters in the state. Another opportunity is provided by the repeal of the throwback provisions (discussed previously) for sales from Texas to buyers in states where the selling entity has no nexus. This repeal was of significant benefit to Texas retailers and manufacturers who sell in multiple states.

Table 11 (discussed earlier) speaks to the **third goal** and shows that the incidence of the tax fits more closely to the structure of the economy. Of the three goals, the tax has been at least moderately successful in achieving the second and third.

Cost of Goods Sold (COGS): Use and Results of Application

Table 18 provides a detailed analysis of factors that contributed to the original estimate of tax collections from the margin base. The table reveals that many major aspects of the tax were estimated accurately, including the apportionment ratio, Texas revenue, the overall tax rate and the amount of credits and discounts taken.

The table also shows, however, that the main contributor to the overall estimate's variance from actual collections related to the cost of goods sold deduction. First, the number of taxpayers that deducted COGS was higher than estimated. The percentage of total Texas revenue from all taxpayers deducting COGS as a group was originally estimated at 80 percent of all Texas revenue reported, but was actually 85 percent in report year 2008, and 86 percent in 2009. Thus the total revenue eligible to be offset by the COGS deduction was actually 5 to 6 percent more than estimated. Secondly, the amount deducted by specific taxpayers taking COGS was higher than estimated. Individual taxpayers that used COGS were able to reduce their Texas revenue by 82 percent in report year 2008 and 84 percent in 2009, while it was expected that the reduction would be 68 percent. Therefore, by 2009 the tax base was 16 percent of revenue rather than the anticipated 32 percent for taxpayers using the COGS deduction.

The relative size and predominant use of the COGS deduction as shown in **Table 19** meant that this variance may have contributed to a \$2 billion reduction in actual revenue collections compared to estimate. Specifics of the COGS deduction that contributed to this are discussed later in this section of the report.

Table 19 shows the predominance of COGS over other franchise tax deductions and filing methods. This effect was apparently intended generally by the Tax Reform Commission, as its report was critical of taxes "levied primarily on tangible items despite an economy that is increasingly service-driven." More than 61 percent of tax revenue is collected from those who use COGS as a deduction. The COGS deduction from revenue is larger than other methods of calculating the tax. One way to look at that difference is to note that taxpayers using the COGS deduction reported over 86 percent of the revenue apportioned to Texas. That means taxpayers who did not or could not use the COGS deduction paid nearly 39 percent of the tax on less than 14 percent of the apportioned revenue.

The complexity in COGS is due to the size and nature of the COGS calculation that was created for the Texas revised franchise tax. The Texas definition of COGS is found neither in Generally Accepted Accounting Principles (GAAP) nor the Federal Income Tax (FIT) code. Texas COGS, with the exception of officer compensation and selling expenses, generally expanded federal COGS to include items that can be expensed for federal purposes. This, in effect, brought the franchise tax base closer to the size of an income tax based on federal taxable income for industries where the COGS deduction predominates.

The old earned surplus component of the franchise tax, which was largely based on federal taxable income, had a rate of 4.5 percent and a taxable capital component which produced additional revenue. The pre-margin franchise tax also had a throwback provision that the franchise tax on margin does not have. The franchise tax on margin was supposed to bring in almost twice the amount of revenue at a maximum rate for any taxpayer of 0.7 percent.

Aside from Texas COGS being more expansive than federal COGS, the purpose of the provisions also differ and have different effects on their respective tax bases. For federal tax purposes, COGS allows for the deduction of qualifying inventory costs when the goods are sold. The costs of unsold goods at the end of the year are included in ending inventory and are not deductible until a future year. So, it is merely a timing difference for federal purposes. On the other hand, the purpose of Texas COGS is to identify all qualifying costs that are deductible as COGS to compute margin. Any Texas non-COGS costs are not deductible from revenue to arrive at margin. However, federal non-COGS amounts are deductible currently on other lines of the federal return to calculate federal taxable income.

In other words, for purposes of the Texas revised franchise tax, a larger COGS reduces the tax base. For federal tax purposes, increasing COGS actually increases the tax base in the short run, because it increases the value of ending inventory, delaying deduction of certain costs until a subsequent year. Therefore, given the definitional differences and opposite effects of the two COGS provisions, taxpayers have more opportunity and incentive to include more in their Texas COGS than in their federal COGS.

That being said, it is unlikely that tying Texas COGS to federal COGS would increase franchise tax revenue. Because costs not usually reported on the federal COGS schedule could be included there without penalty and be-

cause those costs are otherwise allowed as deductions for federal tax purposes, Internal Revenue Service (IRS) auditors are likely not concerned with the inclusion of those costs. Therefore, Texas auditors would have to audit the federal COGS number in greater detail than IRS auditors if Texas were to tie Texas COGS to federal COGS. In addition, tying Texas COGS to federal COGS would create fairness issues since certain, generally smaller, taxpayers do not have to use COGS for federal purposes. They may currently deduct the expenses. Therefore, those taxpayers would not get as many deductions for Texas franchise tax purposes that larger taxpayers would get.

One other issue related to COGS that has been raised by certain industries is the fact that the cost of goods sold deduction is not available to service businesses. For a number of service businesses, this is not a major obstacle because salaries and benefits make up a significant part of the “costs of services produced” and any non-deductible “cost of services produced” would be small by comparison. However, for capital-intensive service businesses and businesses that rely on contract labor, the non-deductible “cost of services produced” is significant. For example, telecommunications firms have quite high capital costs, even compared to manufacturing firms, but are unable to make use of the COGS deduction as a result of their status. Another service industry that has high non-deductible “costs of services produced” is the transportation and courier companies. Most of the time they use independent contractors to deliver their services, but are unable to deduct these costs when calculating taxable margin. These industries believe this issue should be reviewed as part of any comprehensive legislative review of the tax.

Other Factors

As shown on **Table 18**, research by the Comptroller’s Revenue Estimating Division suggests that the size of COGS was the most important revenue factor from the revised franchise tax underperforming the estimate. Some other possible factors shown in bold for the shortfall of revenue as compared to the estimate are discussed below.

Passive entities are not subject to franchise tax. However, a taxable entity that owns an interest in a passive entity may exclude income from a passive entity only to the extent the net income of the passive entity was generated by the margin of another taxable entity. The Comptroller is trying to determine, through audits, if this provision is being incorrectly applied.

The passive entity provision can be a challenge for taxpayers to comply with as well. Most flow through entities simply submit a form K-1, with only the partners share of the net income reflected. To properly apply this rule, the taxpayer needs not only the partnership return, but also the return of other flow through entities where the partnership itself is a partner. These tiered flow through structures frequently have multiple levels and taxpayers generally do not have access to the necessary information to be as compliant, much less to provide to auditors for verification during an audit.

The Comptroller reports that some taxpayers who do not qualify for the 0.5% **rate** may have claimed it. This rate is available only for taxpayers who fall under Divisions F and G (Wholesale and Retail Trade) of the 1987 Standard Industrial Classification Manual. This system, like the North American Industry Classification System (NAICS) that replaced it, was designed to classify industries for purposes of collecting, analyzing and publishing statistical data, not to apply to a tax system. Some taxpayers, in order to cut their franchise tax liability in half, classify themselves into a category that the Comptroller may challenge. For example, auto body repair shops do not fall under Divisions F or G, but many such entities report themselves as retailers and have taken the 0.5 percent rate, instead of using the 1 percent rate. This may lead to litigation over the next few years.

In addition, some businesses have raised the issue of how well this classification and the statute generally identify retailers and wholesalers in another sense. They argue that as businesses have evolved, many companies are now primarily retail businesses although they retain an older, outmoded categorization under the federal government’s

classification scheme. They further believe the Legislature should consider an alternative classification system that would provide a different test for defining business types.

Taxpayers using the EZ computation are not allowed a deduction for COGS or compensation. The Comptroller has noticed that the **percentage of exclusions on the EZ franchise tax reports** is substantially higher than on the long form franchise tax reports. The Comptroller is investigating whether taxpayers using the EZ computation underreported their tax by including COGS or compensation costs as exclusions.

Taxpayers who preserved their right to claim a **temporary credit** against taxable margin may claim the credit for 20 consecutive privilege periods beginning in 2008. Comptroller records show that more than \$171 billion in business losses have been preserved by taxpayers. This means there is a potential for more than \$7.7 billion in credits to be taken over the 20 years, beginning with the 2008 annual franchise tax reports, more than \$6 billion more than originally estimated. Only additional audits performed over the coming years will determine how much of the difference between actual and expected preserved business losses is attributable to taxpayer error or underestimation.

In sum, the factors just discussed will likely receive additional clarification from audits, hearings and court cases such that over the next five years, the Comptroller's Tax Policy Division may spend 50 percent of its time preparing for and participating in administrative hearings and court cases, whether assisting with the development of briefs or giving depositions. This will be time not spent on giving guidance to taxpayers and other matters.

Within two decades, Texas will likely have a body of case law similar to that of California which will have redefined the tax over time. It is unlikely, however, that the development of this case law and full audit coverage of the largest taxpayers will result in collections projected in original revenue estimates. In fact, the combination of audit and economic recovery will not likely combine to boost revenue from the tax to more than \$5 billion per year within five years.

Another factor affecting both taxpayers and the state is the added complexity of the tax that is both a function of it being new and that it relies on a non-traditional tax base of margin. Taxpayers have frequently incurred additional tax preparation costs and the state has devoted additional resources to implementation and audit.

Auditing the Margin Base

The Comptroller is currently auditing the tax using a two-pronged approach. First, a team of desk auditors, along with the Business Activity Research Team, is contacting taxpayers through desk audits on a variety of issues. Examples include taxpayers who may have inadvertently taken the half rate on their tax returns but are not eligible to do so as a retailer, wholesaler or restaurant; users of the EZ computation who have excessive total income exclusions; taxpayers taking cost of goods sold in industries potentially not eligible for COGS.

In addition to desk audits, the Comptroller's Audit Division is working on field audits of larger taxpayers who file combined returns. Ultimately these audits will cover the largest 2,000 taxpayers encompassing more than 100,000 affiliated entities. Of the agency's nearly 600 auditors, more than 280 spend at least some of their time auditing the franchise tax.

Looking Ahead

The Comptroller's office has reported that it is unlikely that expected hearings, court decisions and audit coverage will result in the tax producing the revenue originally estimated within at least the next five years. As the Legisla-

ture enters the 2011 session with a budget picture that is potentially more challenging than it has been in decades, there may be a move to revisit the issue as to whether the tax has operated as intended.

As noted previously, this question can be approached from a variety of perspectives not limited to revenue performance. The tax undoubtedly closed many loopholes that existed in the pre-margin base with the intent of creating significant new revenue for property tax relief. As noted in Section 2 of the report, the tax does, however, generate revenue consistent with the proportionate amount of revenue produced by business taxes in most states. Also noted is the fact that the margin base, as intended, has redistributed the burden of the tax to reflect the economy much more closely.

Nonetheless, impact of past and future revenue projections for the tax and their comparison to actual revenue collections may remain a part of the overall budget discussion. While it is beyond the scope of this report to discuss the property tax, policymakers will likely analyze the ongoing impact and cost of the property tax relief that the revisions to the franchise tax were designed to pay for in part. Data limitations and assumptions about school districts response to tax rate compression will, however, significantly affect that analysis.

Future policy franchise tax discussions could include issues such as the availability of the COGS deduction, tax rate adjustments, apportionment standards, tax planning opportunities, tax simplification and minimum taxes. As noted, all of these discussions will occur within a backdrop of difficult economic times and consideration of the original policy goals of the tax as currently structured.

The Business Tax Advisory Committee's intent is to offer this information so that the Legislature and other interested parties, regardless of perspective, can use this report to make decisions, ask additional questions and develop positions.

Table 1
Business Tax Advisory Committee
Franchise Tax Paid by Industry and by Size of Business (\$1,000s)
Report Year 2009

Italics: Most firms in this sector use COGS.

*No tax due for taxpayers with
less than \$1 mil. total revenue
for 2010-11*

Industry	Total Industry (\$1,000s)	0 - 0.5 mil.	0.5 - 1 mil.	1 - 5 mil.	5 - 10 mil.	10 - 50 mil.
<i>Agriculture</i>	\$13,499	\$84	\$1,262	\$4,114	\$1,509	\$2,638
<i>Mining (Oil & Gas)</i>	437,928	83	1,624	12,757	9,138	25,385
<i>Utilities</i>	159,512	2	86	495	312	1,054
<i>Construction</i>	190,913	298	6,430	40,575	22,574	48,752
<i>Manufacturing</i>	742,410	81	2,502	18,127	14,325	43,849
<i>Wholesale Trade*</i>	335,815	80	1,888	16,287	11,969	39,133
<i>Retail Trade*</i>	351,654	179	4,631	29,842	14,377	34,015
Air Transportation	9,733	8	64	222	153	995
Truck Transportation	35,546	87	1,074	5,694	3,883	9,198
Rail Transportation	4,706	0	8	192	D	108
Water and Other Transportation	72,915	67	1,057	5,557	3,133	8,949
Warehousing and Storage	12,112	14	141	1,069	1,000	990
Publishing, Software, Data Processing	102,548	35	640	3,518	1,850	5,621
Telecommunications	165,271	9	171	999	877	3,372
Financial Activities	222,613	187	2,931	14,362	8,705	18,450
Real Estate	284,987	1,507	16,870	71,051	22,835	51,094
Professional Services	396,768	548	12,118	55,514	28,310	59,488
Management of Companies	251,518	32	404	3,112	3,073	17,535
Administrative and Support Services	88,309	168	3,329	15,973	6,732	13,407
Waste Management Services	18,637	17	256	1,691	1,218	2,885
Educational Services	14,567	29	544	1,834	1,114	2,103
Health Services	170,098	512	12,286	40,311	12,300	20,386
Arts, Entertainment and Recreation	27,954	67	1,108	4,376	1,909	2,982
Accommodation	41,557	172	2,078	9,525	2,625	6,770
Food Services (includes restaurants)*	61,480	130	3,360	15,658	4,813	8,911
Other Services	73,807	414	7,245	21,012	6,810	12,125
Unclassified	50,393	335	3,245	12,181	4,392	9,110
Total	\$4,337,249	\$5,142	\$87,353	\$406,049	\$189,938	\$449,304
Number of Taxpayers	840,761	635,104	60,424	85,186	19,141	25,013

**Most firms in this sector pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts

Table 1 (cont.)*Gross Receipts Category in dollars*

Industry	50 - 100 mil.	100 - 250 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
<i>Agriculture</i>	\$622	\$870	\$2,399	D	0	0
<i>Mining (Oil & Gas)</i>	11,546	24,460	29,820	70,110	D	253,005
<i>Utilities</i>	663	798	7,799	4,528	31,632	112,143
<i>Construction</i>	15,495	16,006	18,445	13,396	8,943	D
<i>Manufacturing</i>	20,838	29,118	62,086	122,105	82,793	346,586
<i>Wholesale Trade*</i>	22,337	34,409	56,737	71,095	37,174	44,705
<i>Retail Trade*</i>	15,437	22,967	31,418	55,278	32,787	110,723
Air Transportation	94	18	561	659	D	6,959
Truck Transportation	3,520	3,265	5,385	3,441	0	D
Rail Transportation	0	D	4,398	0	0	D
Water and Other Transportation	6,275	4,157	3,014	13,015	D	27,690
Warehousing and Storage	1,720	1,576	2,023	3,578	D	0
Publishing, Software, Data Processing	3,069	3,749	14,262	14,079	20,757	34,968
Telecommunications	3,129	3,608	5,039	22,506	D	125,561
Financial Activities	12,435	14,715	26,579	45,081	9,266	69,901
Real Estate	18,512	25,639	38,051	31,792	7,635	D
Professional Services	22,838	32,966	57,704	56,041	26,943	44,297
Management of Companies	13,772	27,153	60,796	86,942	15,406	23,293
Administrative and Support Services	5,619	8,065	14,853	14,699	5,464	D
Waste Management Services	1,025	2,430	9,115	D	D	D
Educational Services	424	1,482	3,305	3,731	D	0
Health Services	6,780	14,570	14,267	48,686	D	D
Arts, Entertainment and Recreation	1,495	2,985	9,557	3,475	0	D
Accommodation	2,955	3,855	8,051	5,525	D	0
Food Services (includes restaurants)*	3,043	3,775	8,434	6,811	6,545	D
Other Services	3,813	3,659	10,622	8,109	D	0
Unclassified	3,575	7,328	6,339	3,889	0	0
Total	\$201,032	\$293,623	\$511,060	\$708,571	\$285,346	\$1,199,830
Number of Taxpayers	5,589	4,678	3,566	1,542	246	272

Table 2
Business Tax Advisory Committee
Relative Share of Tax Paid by Industry and by Size of Business
Report Year 2009

Italics: Most firms in this sector use COGS.

*No tax due for taxpayers with
less than \$1 mil. total revenue
for 2010-11*

Industry	Percent of Tax Paid by Industry	0 - 0.5 mil.	0.5 - 1 mil.	1 - 5 mil.	5 - 10 mil.	10 - 50 mil.
<i>Agriculture</i>	0.3%	0.6%	9.3%	30.5%	11.2%	19.5%
<i>Mining (Oil & Gas)</i>	10.1%	0.0%	0.4%	2.9%	2.1%	5.8%
<i>Utilities</i>	3.7%	0.0%	0.1%	0.3%	0.2%	0.7%
<i>Construction</i>	4.4%	0.2%	3.4%	21.3%	11.8%	25.5%
<i>Manufacturing</i>	17.1%	0.0%	0.3%	2.4%	1.9%	5.9%
<i>Wholesale Trade*</i>	7.7%	0.0%	0.6%	4.9%	3.6%	11.7%
<i>Retail Trade*</i>	8.1%	0.1%	1.3%	8.5%	4.1%	9.7%
Air Transportation	0.2%	0.1%	0.7%	2.3%	1.6%	10.2%
Truck Transportation	0.8%	0.2%	3.0%	16.0%	10.9%	25.9%
Rail Transportation	0.1%	0.0%	0.2%	4.1%	D	2.3%
Water and Other Transportation	1.7%	0.1%	1.5%	7.6%	4.3%	12.3%
Warehousing and Storage	0.3%	0.1%	1.2%	8.8%	8.3%	8.2%
Publishing, Software, Data Processing	2.4%	0.0%	0.6%	3.4%	1.8%	5.5%
Telecommunications	3.8%	0.0%	0.1%	0.6%	0.5%	2.0%
Financial Activities	5.1%	0.1%	1.3%	6.5%	3.9%	8.3%
Real Estate	6.6%	0.5%	5.9%	24.9%	8.0%	17.9%
Professional Services	9.1%	0.1%	3.1%	14.0%	7.1%	15.0%
Management of Companies	5.8%	0.0%	0.2%	1.2%	1.2%	7.0%
Administrative and Support Services	2.0%	0.2%	3.8%	18.1%	7.6%	15.2%
Waste Management Services	0.4%	0.1%	1.4%	9.1%	6.5%	15.5%
Educational Services	0.3%	0.2%	3.7%	12.6%	7.7%	14.4%
Health Services	3.9%	0.3%	7.2%	23.7%	7.2%	12.0%
Arts, Entertainment and Recreation	0.6%	0.2%	4.0%	15.7%	6.8%	10.7%
Accommodation	1.0%	0.4%	5.0%	22.9%	6.3%	16.3%
Food Services (includes restaurants)*	1.4%	0.2%	5.5%	25.5%	7.8%	14.5%
Other Services	1.7%	0.6%	9.8%	28.5%	9.2%	16.4%
Unclassified	1.2%	0.7%	6.4%	24.2%	8.7%	18.1%
Total	100.0%	0.1%	2.0%	9.4%	4.4%	10.4%

**Most firms in this sector pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts

Table 2 (cont.)*Gross Receipts Category in dollars – Percent of Industry tax paid gross receipts category*

Industry	50 - 100 mil.	100 - 250 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
<i>Agriculture</i>	4.6%	6.4%	17.8%	D	0.0%	0.0%
<i>Mining (Oil & Gas)</i>	2.6%	5.6%	6.8%	16.0%	D	57.8%
<i>Utilities</i>	0.4%	0.5%	4.9%	2.8%	19.8%	70.3%
<i>Construction</i>	8.1%	8.4%	9.7%	7.0%	4.7%	D
<i>Manufacturing</i>	2.8%	3.9%	8.4%	16.4%	11.2%	46.7%
<i>Wholesale Trade*</i>	6.7%	10.2%	16.9%	21.2%	11.1%	13.3%
<i>Retail Trade*</i>	4.4%	6.5%	8.9%	15.7%	9.3%	31.5%
Air Transportation	1.0%	0.2%	5.8%	6.8%	D	71.5%
Truck Transportation	9.9%	9.2%	15.1%	9.7%	0.0%	D
Rail Transportation	0.0%	D	93.5%	0.0%	0.0%	D
Water and Other Transportation	8.6%	5.7%	4.1%	17.8%	D	38.0%
Warehousing and Storage	14.2%	13.0%	16.7%	29.5%	D	0.0%
Publishing, Software, Data Processing	3.0%	3.7%	13.9%	13.7%	20.2%	34.1%
Telecommunications	1.9%	2.2%	3.0%	13.6%	D	76.0%
Financial Activities	5.6%	6.6%	11.9%	20.3%	4.2%	31.4%
Real Estate	6.5%	9.0%	13.4%	11.2%	2.7%	D
Professional Services	5.8%	8.3%	14.5%	14.1%	6.8%	11.2%
Management of Companies	5.5%	10.8%	24.2%	34.6%	6.1%	9.3%
Administrative and Support Services	6.4%	9.1%	16.8%	16.6%	6.2%	D
Waste Management Services	5.5%	13.0%	48.9%	D	D	D
Educational Services	2.9%	10.2%	22.7%	25.6%	D	0.0%
Health Services	4.0%	8.6%	8.4%	28.6%	D	D
Arts, Entertainment and Recreation	5.3%	10.7%	34.2%	12.4%	0.0%	D
Accommodation	7.1%	9.3%	19.4%	13.3%	D	0.0%
Food Services (includes restaurants)*	4.9%	6.1%	13.7%	11.1%	10.6%	D
Other Services	5.2%	5.0%	14.4%	11.0%	D	0.0%
Unclassified	7.1%	14.5%	12.6%	7.7%	0.0%	0.0%
Total	4.6%	6.8%	11.8%	16.3%	6.6%	27.7%

Table 3
Business Tax Advisory Committee
Number of Taxpayers by Receipts Category and Industry
Report Year 2009

Italics: Most firms in this sector use COGS.

*No tax due for taxpayers with
less than \$1 mil. total revenue
for 2010-11*

Industry	Total Industry	0 - 0.5 mil.	0.5 - 1 mil.	1 - 5 mil.	5 - 10 mil.	10 - 50 mil.
<i>Agriculture</i>	15,543	12,862	1,127	1,098	192	195
<i>Mining (Oil & Gas)</i>	15,817	10,658	1,129	2,254	638	734
<i>Utilities</i>	1,105	752	63	102	35	49
<i>Construction</i>	53,857	32,380	5,660	9,869	2,340	2,682
<i>Manufacturing</i>	26,018	12,644	2,066	4,344	1,628	2,944
<i>Wholesale Trade*</i>	35,518	17,002	2,577	6,066	2,286	4,212
<i>Retail Trade*</i>	70,019	43,932	7,024	12,416	2,532	2,700
Air Transportation	636	466	39	36	21	32
Truck Transportation	6,878	4,464	596	950	292	365
Rail Transportation	57	26	5	13	D	7
Water and Other Transportation	6,327	4,006	606	900	235	340
Warehousing and Storage	803	431	68	135	52	52
Publishing, Software, Data Processing	7,955	5,968	421	724	218	347
Telecommunications	2,072	1,249	130	267	103	167
Financial Activities	46,778	39,063	2,012	3,004	890	1,061
Real Estate	154,353	135,009	7,497	8,900	1,181	1,182
Professional Services	104,105	78,393	7,626	10,395	2,664	3,460
Management of Companies	15,823	12,650	285	603	243	626
Administrative and Support Services	31,388	23,851	2,179	3,199	722	969
Waste Management Services	1,185	641	117	240	71	78
Educational Services	5,010	4,183	251	325	81	99
Health Services	44,339	30,209	6,864	5,971	606	453
Arts, Entertainment and Recreation	10,181	8,501	582	704	146	149
Accommodation	6,825	4,789	749	996	105	110
Food Services (includes restaurants)*	27,752	19,031	3,569	4,160	447	359
Other Services	47,008	37,714	4,132	3,861	549	528
Unclassified	103,409	94,230	3,050	3,654	864	1,113
Total	840,761	635,104	60,424	85,186	19,141	25,013

**Most firms in this sector pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts

Table 3 (cont.)*Gross Receipts Category in dollars*

Industry	50 - 100 mil.	100 - 250 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
<i>Agriculture</i>	25	25	19	D	0	0
<i>Mining (Oil & Gas)</i>	136	115	78	58	D	17
<i>Utilities</i>	13	17	34	19	8	13
<i>Construction</i>	447	269	155	46	9	D
<i>Manufacturing</i>	766	674	568	259	51	74
<i>Wholesale Trade*</i>	1,217	1,031	753	283	54	37
<i>Retail Trade*</i>	526	399	284	144	32	30
Air Transportation	8	3	16	9	D	6
Truck Transportation	81	69	45	16	0	D
Rail Transportation	0	D	6	0	0	D
Water and Other Transportation	97	75	38	23	D	7
Warehousing and Storage	22	16	19	8	D	0
Publishing, Software, Data Processing	90	76	63	25	12	11
Telecommunications	54	43	33	20	D	6
Financial Activities	259	192	156	97	11	33
Real Estate	208	194	133	44	5	D
Professional Services	629	472	333	107	17	9
Management of Companies	273	391	442	248	33	29
Administrative and Support Services	193	150	83	35	7	D
Waste Management Services	10	14	14	D	D	D
Educational Services	22	26	16	7	D	0
Health Services	83	83	46	24	D	D
Arts, Entertainment and Recreation	24	36	30	9	0	D
Accommodation	25	22	20	9	D	0
Food Services (includes restaurants)*	61	53	48	17	7	D
Other Services	105	61	43	15	D	0
Unclassified	215	172	91	20	0	0
Total	5,589	4,678	3,566	1,542	246	272

Table 4
Business Tax Advisory Committee
Tax Paid and Gross State Product by Industry
Report Year 2009

Italics: Most firms in this sector use COGS.

Industry	Business Tax Paid (\$ 1000s)	2008 GSP (\$ Millions)	Texas Receipts (\$ Millions)	Share of Texas Receipts
<i>Agriculture</i>	\$13,499	\$9,779	\$11,770	0.5%
<i>Mining (Oil & Gas)</i>	437,928	138,435	397,042	16.5%
<i>Utilities</i>	159,512	41,738	89,595	3.7%
<i>Construction</i>	190,913	58,853	123,179	5.1%
<i>Manufacturing</i>	742,410	158,803	440,038	18.3%
<i>Wholesale Trade*</i>	335,815	76,378	352,026	14.6%
<i>Retail Trade*</i>	351,654	71,988	319,509	13.3%
Air Transportation	9,733	7,603	1,650	0.1%
Truck Transportation	35,546	11,296	9,345	0.4%
Rail Transportation	4,706	3,361	709	0.0%
Water and Other Transportation	72,915	15,805	37,781	1.6%
Warehousing and Storage	12,112	3,149	4,972	0.2%
Publishing, Software, Data Processing	102,548	15,080	20,722	0.9%
Telecommunications	165,271	31,254	28,395	1.2%
Financial Activities	222,613	47,058	73,872	3.1%
Real Estate	284,987	104,649	63,099	2.6%
Professional Services	396,768	83,341	117,577	4.9%
Management of Companies	251,518	19,163	133,392	5.5%
Administrative and Support Services	88,309	35,453	31,597	1.3%
Waste Management Services	18,637	2,827	4,122	0.2%
Educational Services	14,567	6,468	2,891	0.1%
Health Services	170,098	69,458	46,655	1.9%
Arts, Entertainment and Recreation	27,954	7,331	6,570	0.3%
Accommodation	41,557	7,019	7,294	0.3%
Food Services (includes restaurants)*	61,480	22,424	34,273	1.4%
Other Services	73,807	25,113	26,459	1.1%
Unclassified	50,393	-	20,073	0.8%
Total	\$4,337,249	\$1,073,826	\$2,404,606	100%

*Most firms in this sector pay half rate.

** Global Insight

*** <http://www.bizstats.com/corporations.asp?profType=income>

Source: Texas Comptroller of Public Accounts

Table 4 (cont.)

Industry	Share of Tax Paid	Share of Gross State Product	U.S. Ten Year Forecast Job Growth Rate**	Net Profit Percent of Receipts***
<i>Agriculture</i>	0.3%	0.9%	-	8.65%
<i>Mining (Oil & Gas)</i>	10.1%	12.9%	(2.55%)	19.83%
<i>Utilities</i>	3.7%	3.9%	(1.59%)	8.00%
<i>Construction</i>	4.4%	5.5%	2.04%	6.53%
<i>Manufacturing</i>	17.1%	14.8%	0.64%	8.68%
<i>Wholesale Trade*</i>	7.7%	7.1%	1.40%	4.21%
<i>Retail Trade*</i>	8.1%	6.7%	0.24%	4.33%
Air Transportation	0.2%	0.7%	2.41%	3.53%
Truck Transportation	0.8%	1.1%	2.41%	4.98%
Rail Transportation	0.1%	0.3%	2.41%	13.28%
Water and Other Transportation	1.7%	1.5%	2.41%	7.29%
Warehousing and Storage	0.3%	0.3%	2.41%	9.44%
Publishing, Software, Data Processing	2.4%	1.4%	0.68%	13.37%
Telecommunications	3.8%	2.9%	0.68%	13.31%
Financial Activities	5.1%	4.4%	(0.69%)	19.34%
Real Estate	6.6%	9.7%	0.39%	16.06%
Professional Services	9.1%	7.8%	1.94%	9.65%
Management of Companies	5.8%	1.8%	(1.27%)	15.17%
Administrative and Support Services	2.0%	3.3%	6.12%	6.37%
Waste Management Services	0.4%	0.3%	4.73%	8.19%
Educational Services	0.3%	0.6%	(0.56%)	11.88%
Health Services	3.9%	6.5%	1.86%	9.50%
Arts, Entertainment and Recreation	0.6%	0.7%	0.49%	13.46%
Accommodation	1.0%	0.7%	0.59%	8.98%
Food Services (includes restaurants)*	1.4%	2.1%	0.59%	7.23%
Other Services	1.7%	2.3%	0.04%	7.29%
Unclassified	1.2%	-	-	-
Total	100%	100%	1.18%	-

Table 5
Business Tax Advisory Committee
Tax Paid as a Percentage of Texas Revenue by Industry and by Size of Business
Report Year 2009

Italics: Most firms in this sector will use COGS deduction.

No tax due for taxpayers with less than \$1 mil. total revenue for 2010-11

Industry	Total Industry	0 - 0.5 mil.	0.5 - 1 mil.	1 - 5 mil.	5 - 10 mil.	10 - 50 mil.
<i>Agriculture</i>	0.115%	0.023%	0.172%	0.203%	0.155%	0.093%
<i>Mining (Oil & Gas)</i>	0.110%	0.032%	0.266%	0.351%	0.317%	0.300%
<i>Utilities</i>	0.178%	0.020%	0.217%	0.275%	0.162%	0.190%
<i>Construction</i>	0.155%	0.023%	0.166%	0.202%	0.182%	0.161%
<i>Manufacturing</i>	0.169%	0.019%	0.193%	0.240%	0.231%	0.232%
<i>Wholesale Trade*</i>	0.095%	0.015%	0.123%	0.155%	0.129%	0.119%
<i>Retail Trade*</i>	0.110%	0.011%	0.098%	0.118%	0.103%	0.094%
Air Transportation	0.590%	0.075%	0.305%	0.389%	0.297%	0.392%
Truck Transportation	0.380%	0.052%	0.274%	0.352%	0.339%	0.396%
Rail Transportation	0.664%	0.000%	0.244%	0.545%	D	0.394%
Water and Other Transportation	0.193%	0.043%	0.275%	0.359%	0.336%	0.376%
Warehousing and Storage	0.244%	0.083%	0.323%	0.407%	0.368%	0.213%
Publishing, Software, Data Processing	0.495%	0.029%	0.260%	0.356%	0.354%	0.420%
Telecommunications	0.582%	0.027%	0.215%	0.273%	0.336%	0.405%
Financial Activities	0.301%	0.030%	0.270%	0.396%	0.411%	0.446%
Real Estate	0.452%	0.055%	0.360%	0.487%	0.454%	0.470%
Professional Services	0.337%	0.026%	0.259%	0.362%	0.356%	0.370%
Management of Companies	0.189%	0.030%	0.271%	0.360%	0.349%	0.340%
Administrative and Support Services	0.279%	0.026%	0.241%	0.315%	0.279%	0.273%
Waste Management Services	0.452%	0.071%	0.315%	0.360%	0.382%	0.426%
Educational Services	0.504%	0.031%	0.338%	0.431%	0.430%	0.527%
Health Services	0.365%	0.025%	0.259%	0.361%	0.350%	0.366%
Arts, Entertainment and Recreation	0.425%	0.041%	0.320%	0.431%	0.460%	0.433%
Accommodation	0.570%	0.088%	0.401%	0.529%	0.483%	0.607%
Food Services (includes restaurants)*	0.179%	0.014%	0.134%	0.199%	0.173%	0.171%
Other Services	0.279%	0.035%	0.260%	0.315%	0.304%	0.304%
Unclassified	0.251%	0.037%	0.204%	0.287%	0.263%	0.270%
Total	0.180%	0.031%	0.226%	0.276%	0.240%	0.225%

**Most firms in this sector pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts

Table 5 (cont.)*Gross Receipts Category in dollars*

Industry	50 - 100 mil.	100 - 250 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
<i>Agriculture</i>	0.060%	0.103%	0.081%	D	-	-
<i>Mining (Oil & Gas)</i>	0.316%	0.342%	0.276%	0.199%	D	0.078%
<i>Utilities</i>	0.164%	0.047%	0.116%	0.065%	0.139%	0.224%
<i>Construction</i>	0.136%	0.133%	0.123%	0.115%	0.173%	D
<i>Manufacturing</i>	0.227%	0.226%	0.226%	0.225%	0.208%	0.132%
<i>Wholesale Trade*</i>	0.110%	0.119%	0.117%	0.104%	0.093%	0.049%
<i>Retail Trade*</i>	0.085%	0.096%	0.113%	0.146%	0.116%	0.109%
Air Transportation	0.318%	0.193%	0.574%	1.074%	D	0.680%
Truck Transportation	0.443%	0.342%	0.479%	0.415%	-	D
Rail Transportation	-	D	0.684%	-	-	D
Water and Other Transportation	0.434%	0.298%	0.417%	0.206%	D	0.123%
Warehousing and Storage	0.486%	0.500%	0.208%	0.158%	D	-
Publishing, Software, Data Processing	0.481%	0.512%	0.533%	0.499%	0.594%	0.489%
Telecommunications	0.462%	0.460%	0.356%	0.534%	D	0.636%
Financial Activities	0.406%	0.412%	0.357%	0.350%	0.308%	0.216%
Real Estate	0.467%	0.437%	0.601%	0.452%	0.384%	D
Professional Services	0.369%	0.374%	0.404%	0.315%	0.384%	0.255%
Management of Companies	0.336%	0.274%	0.267%	0.213%	0.113%	0.067%
Administrative and Support Services	0.332%	0.347%	0.361%	0.207%	0.277%	D
Waste Management Services	0.479%	0.569%	0.477%	D	D	D
Educational Services	0.501%	0.587%	0.617%	0.547%	D	-
Health Services	0.391%	0.415%	0.376%	0.459%	D	D
Arts, Entertainment and Recreation	0.368%	0.299%	0.526%	0.484%	-	D
Accommodation	0.651%	0.634%	0.636%	0.699%	D	-
Food Services (includes restaurants)*	0.179%	0.201%	0.212%	0.206%	0.159%	D
Other Services	0.253%	0.289%	0.257%	0.300%	D	-
Unclassified	0.232%	0.399%	0.283%	0.145%	-	-
Total	0.212%	0.221%	0.231%	0.209%	0.167%	0.124%

Table 6
Business Tax Advisory Committee
Franchise Tax Paid by Industry and by Size of Business (\$1,000s)
Report Year 2007

Industry	Total Industry (\$1,000s)	0 - 0.5 mil.	0.5 - 1 mil.	1 - 5 mil.	5 - 10 mil.	10 - 50 mil.
Agriculture	\$14,638	\$2,466	\$1,976	\$3,519	\$1,015	\$2,367
Mining (Oil & Gas)	478,068	3,173	3,396	15,897	10,134	25,384
Utilities	119,656	122	134	489	556	683
Construction	112,422	5,599	6,740	25,126	12,489	25,793
Manufacturing	540,389	2,389	3,100	14,926	12,840	41,364
Wholesale Trade	353,513	2,582	2,948	15,166	11,946	42,900
Retail Trade	204,563	5,650	6,606	24,246	11,450	23,162
Air Transportation	3,343	58	13	73	97	272
Truck Transportation	14,547	613	575	2,592	1,335	4,862
Rail Transportation	3,861	28	4	129	D	310
Water and Other Transportation	30,475	636	772	2,603	2,550	4,540
Warehousing and Storage	8,156	92	152	520	608	1,049
Publishing, Software, Data Processing	51,736	728	503	2,051	1,683	4,847
Telecommunications	45,384	199	182	652	556	2,116
Financial Activities	209,600	6,155	4,745	11,886	6,529	18,688
Real Estate	132,981	18,364	12,145	25,674	8,138	21,674
Professional Services	209,599	17,367	11,370	26,125	13,728	29,773
Management of Companies	170,685	1,294	954	4,005	3,286	20,139
Administrative and Support Services	49,999	4,386	2,921	7,473	3,238	7,053
Waste Management Services	5,659	123	159	992	434	1,184
Educational Services	7,532	594	383	607	704	781
Health Services	55,280	4,038	3,499	9,127	4,204	5,478
Arts, Entertainment and Recreation	9,915	901	793	1,691	824	1,209
Accommodation	15,453	1,090	1,669	3,980	1,333	1,084
Food Services (includes restaurants)	39,579	2,464	3,322	9,036	3,019	5,442
Other Services	44,031	5,303	4,667	9,483	3,543	6,632
Unclassified	36,601	6,680	3,917	9,689	3,227	5,519
Total	\$2,967,665	\$93,092	\$77,645	\$227,756	\$119,466	\$304,305
Number of Taxpayers	633,622	470,226	46,100	66,749	15,503	21,217

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts

Table 6 (cont.)*Gross Receipts Category in dollars*

Industry	50 - 100 mil.	100 - 250 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
Agriculture	\$204	\$43	\$2,262	\$786	0	0
Mining (Oil & Gas)	10,090	7,779	45,820	68,682	D	287,714
Utilities	474	1,029	5,127	33,842	28,916	48,282
Construction	6,987	9,629	11,109	5,228	3,722	D
Manufacturing	21,769	30,212	60,473	78,909	55,459	218,950
Wholesale Trade	20,205	29,918	46,461	72,104	58,069	51,214
Retail Trade	7,665	16,249	25,248	27,779	12,133	44,376
Air Transportation	44	279	133	317	2,057	D
Truck Transportation	1,009	1,196	1,361	1,005	D	0
Rail Transportation	0	3,389	D	0	0	D
Water and Other Transportation	3,161	2,135	3,266	10,812	D	D
Warehousing and Storage	236	488	2,077	2,934	D	D
Publishing, Software, Data Processing	3,092	3,159	4,307	18,331	13,035	D
Telecommunications	887	1,370	4,525	11,481	D	23,417
Financial Activities	7,486	13,067	19,982	35,089	19,306	66,667
Real Estate	7,549	10,299	16,534	7,691	D	4,913
Professional Services	12,733	16,982	28,044	19,876	19,028	14,574
Management of Companies	8,902	22,493	41,381	45,999	9,591	12,641
Administrative and Support Services	4,678	3,612	8,784	5,558	2,297	D
Waste Management Services	380	65	2,322	D	0	0
Educational Services	535	1,349	2,578	D	0	0
Health Services	5,168	6,374	6,300	11,092	0	0
Arts, Entertainment and Recreation	818	1,910	1,768	D	0	0
Accommodation	299	1,584	744	3,670	D	0
Food Services (includes restaurants)	1,434	966	4,859	9,036	D	0
Other Services	3,537	2,440	4,717	3,711	0	D
Unclassified	2,779	1,935	2,108	746	D	D
Total	\$132,122	\$189,951	\$352,292	\$474,677	\$223,613	\$772,748
Number of Taxpayers	4,985	4,098	3,081	1,253	191	219

Table 7
Business Tax Advisory Committee
Relative Share of Tax Paid by Industry and by Size of Business
Report Year 2007

Industry	Percent of Tax Paid by Industry	0 - 0.5 mil.	0.5 - 1 mil.	1 - 5 mil.	5 - 10 mil.	10 - 50 mil.
Agriculture	0.5%	16.8%	13.5%	24.0%	6.9%	16.2%
Mining (Oil & Gas)	16.1%	0.7%	0.7%	3.3%	2.1%	5.3%
Utilities	4.0%	0.1%	0.1%	0.4%	0.5%	0.6%
Construction	3.8%	5.0%	6.0%	22.3%	11.1%	22.9%
Manufacturing	18.2%	0.4%	0.6%	2.8%	2.4%	7.7%
Wholesale Trade	11.9%	0.7%	0.8%	4.3%	3.4%	12.1%
Retail Trade	6.9%	2.8%	3.2%	11.9%	5.6%	11.3%
Air Transportation	0.1%	1.7%	0.4%	2.2%	2.9%	8.1%
Truck Transportation	0.5%	4.2%	4.0%	17.8%	9.2%	33.4%
Rail Transportation	0.1%	0.7%	0.1%	3.3%	D	8.0%
Water and Other Transportation	1.0%	2.1%	2.5%	8.5%	8.4%	14.9%
Warehousing and Storage	0.3%	1.1%	1.9%	6.4%	7.5%	12.9%
Publishing, Software, Data Processing	1.7%	1.4%	1.0%	4.0%	3.3%	9.4%
Telecommunications	1.5%	0.4%	0.4%	1.4%	1.2%	4.7%
Financial Activities	7.1%	2.9%	2.3%	5.7%	3.1%	8.9%
Real Estate	4.5%	13.8%	9.1%	19.3%	6.1%	16.3%
Professional Services	7.1%	8.3%	5.4%	12.5%	6.5%	14.2%
Management of Companies	5.8%	0.8%	0.6%	2.3%	1.9%	11.8%
Administrative and Support Services	1.7%	8.8%	5.8%	14.9%	6.5%	14.1%
Waste Management Services	0.2%	2.2%	2.8%	17.5%	7.7%	20.9%
Educational Services	0.3%	7.9%	5.1%	8.1%	9.3%	10.4%
Health Services	1.9%	7.3%	6.3%	16.5%	7.6%	9.9%
Arts, Entertainment and Recreation	0.3%	9.1%	8.0%	17.1%	8.3%	12.2%
Accommodation	0.5%	7.1%	10.8%	25.8%	8.6%	7.0%
Food Services (includes restaurants)	1.3%	6.2%	8.4%	22.8%	7.6%	13.8%
Other Services	1.5%	12.0%	10.6%	21.5%	8.0%	15.1%
Unclassified	1.2%	18.3%	10.7%	26.5%	8.8%	15.1%
Total	100.0%	3.1%	2.6%	7.7%	4.0%	10.3%

D – Confidentiality restrictions prohibit disclosure of data in these cells.
Source: Texas Comptroller of Public Accounts

Table 7 (cont.)*Gross Receipts Category in dollars – Percent of Industry tax paid per gross receipts category*

Industry	50 - 100 mil.	100 - 250 mil.	25 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
Agriculture	1.4%	0.3%	15.5%	5.4%	0.0%	0.0%
Mining (Oil & Gas)	2.1%	1.6%	9.6%	14.4%	D	60.2%
Utilities	0.4%	0.9%	4.3%	28.3%	24.2%	40.4%
Construction	6.2%	8.6%	9.9%	4.7%	3.3%	D
Manufacturing	4.0%	5.6%	11.2%	14.6%	10.3%	40.5%
Wholesale Trade	5.7%	8.5%	13.1%	20.4%	16.4%	14.5%
Retail Trade	3.7%	7.9%	12.3%	13.6%	5.9%	21.7%
Air Transportation	1.3%	8.4%	4.0%	9.5%	61.5%	D
Truck Transportation	6.9%	8.2%	9.4%	6.9%	D	0.0%
Rail Transportation	0.0%	87.8%	D	0.0%	0.0%	D
Water and Other Transportation	10.4%	7.0%	10.7%	35.5%	D	D
Warehousing and Storage	2.9%	6.0%	25.5%	36.0%	D	D
Publishing, Software, Data Processing	6.0%	6.1%	8.3%	35.4%	25.2%	D
Telecommunications	2.0%	3.0%	10.0%	25.3%	D	51.6%
Financial Activities	3.6%	6.2%	9.5%	16.7%	9.2%	31.8%
Real Estate	5.7%	7.7%	12.4%	5.8%	D	3.7%
Professional Services	6.1%	8.1%	13.4%	9.5%	9.1%	7.0%
Management of Companies	5.2%	13.2%	24.2%	26.9%	5.6%	7.4%
Administrative and Support Services	9.4%	7.2%	17.6%	11.1%	4.6%	D
Waste Management Services	6.7%	1.1%	41.0%	D	0.0%	0.0%
Educational Services	7.1%	17.9%	34.2%	D	0.0%	0.0%
Health Services	9.3%	11.5%	11.4%	20.1%	0.0%	0.0%
Arts, Entertainment and Recreation	8.3%	19.3%	17.8%	D	0.0%	0.0%
Accommodation	1.9%	10.3%	4.8%	23.7%	D	0.0%
Food Services (includes restaurants)	3.6%	2.4%	12.3%	22.8%	D	0.0%
Other Services	8.0%	5.5%	10.7%	8.4%	0.0%	D
Unclassified	7.6%	5.3%	5.8%	2.0%	D	D
Total	4.5%	6.4%	11.9%	16.0%	7.5%	26.0%

Table 8
Business Tax Advisory Committee
Number of Taxpayers by Receipts Category and Industry
Report Year 2007

Industry	Total Industry	0 - 0.5 mil.	0.5 - 1 mil.	1 - 5 mil.	5 - 10 mil.	10 - 50 mil.
Agriculture	11,150	9,202	869	770	122	134
Mining (Oil & Gas)	11,865	8,079	922	1,694	448	458
Utilities	934	654	57	90	18	45
Construction	45,907	26,798	5,379	9,058	1,889	2,112
Manufacturing	24,193	12,002	1,982	4,172	1,458	2,472
Wholesale Trade	32,450	15,121	2,489	5,750	2,113	3,912
Retail Trade	62,612	39,049	6,679	11,243	2,143	2,267
Air Transportation	498	332	25	39	24	31
Truck Transportation	5,849	3,379	572	1,035	276	372
Rail Transportation	61	28	5	13	D	8
Water and Other Transportation	5,374	3,196	530	904	230	306
Warehousing and Storage	760	419	60	124	44	57
Publishing, Software, Data Processing	6,534	4,749	369	627	200	328
Telecommunications	2,239	1,348	141	302	102	180
Financial Activities	33,877	26,691	1,665	2,622	797	1,231
Real Estate	82,814	73,998	3,340	3,685	652	761
Professional Services	87,992	66,228	6,545	8,772	2,232	2,881
Management of Companies	12,212	9,276	278	536	228	689
Administrative and Support Services	26,767	19,568	1,992	3,007	691	973
Waste Management Services	1,064	564	118	224	60	63
Educational Services	3,947	3,218	233	273	73	96
Health Services	20,557	14,761	2,417	2,490	369	337
Arts, Entertainment and Recreation	8,205	6,776	490	599	116	131
Accommodation	4,628	3,352	561	536	52	71
Food Services (includes restaurants)	22,903	16,353	2,982	2,841	311	266
Other Services	40,183	32,040	3,701	3,346	441	455
Unclassified	78,047	73,045	1,699	1,997	414	581
Total	633,622	470,226	46,100	66,749	15,503	21,217

D – Confidentiality restrictions prohibit disclosure of data in these cells.
Source: Texas Comptroller of Public Accounts

Table 8 (cont.)*Gross Receipts Category in dollars*

Industry	50 - 100 mil.	100 - 250 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
Agriculture	25	12	11	5	0	0
Mining (Oil & Gas)	89	59	74	30	D	12
Utilities	7	16	15	20	7	5
Construction	316	208	112	30	5	D
Manufacturing	710	583	492	212	48	62
Wholesale Trade	1,138	964	649	253	36	25
Retail Trade	461	345	251	132	17	25
Air Transportation	8	8	15	11	5	D
Truck Transportation	100	59	42	14	D	0
Rail Transportation	0	7	D	0	0	D
Water and Other Transportation	85	61	43	19	D	D
Warehousing and Storage	14	19	15	8	D	D
Publishing, Software, Data Processing	83	82	51	33	12	D
Telecommunications	50	53	36	21	D	6
Financial Activities	282	211	216	94	22	46
Real Estate	150	125	71	27	D	5
Professional Services	528	407	297	76	15	11
Management of Companies	266	360	352	186	19	22
Administrative and Support Services	221	177	105	28	5	D
Waste Management Services	16	9	10	D	0	0
Educational Services	21	21	12	D	0	0
Health Services	84	52	36	11	0	0
Arts, Entertainment and Recreation	27	36	30	D	0	0
Accommodation	12	26	11	7	D	0
Food Services (includes restaurants)	50	41	41	18	D	0
Other Services	92	62	38	8	0	D
Unclassified	150	95	56	10	D	D
Total	4,985	4,098	3,081	1,253	191	219

Table 9
Business Tax Advisory Committee
Tax Paid and Gross State Product by Industry
Report Year 2007

Industry	Business Tax Paid (\$ 1000s)	2006 GSP (\$ Millions)	Texas Receipts (\$ Millions)	Share of Texas Receipts
Agriculture	\$14,638	\$7,376	\$6,795	0.4%
Mining (Oil & Gas)	478,068	104,409	302,107	16.5%
Utilities	119,656	37,457	56,606	3.1%
Construction	112,422	56,004	77,368	4.2%
Manufacturing	540,389	145,871	333,760	18.3%
Wholesale Trade	353,513	68,996	262,657	14.4%
Retail Trade	204,563	67,668	199,849	10.9%
Air Transportation	3,343	6,864	2,416	0.1%
Truck Transportation	14,547	10,013	10,697	0.6%
Rail Transportation	3,861	3,133	677	0.0%
Water and Other Transportation	30,475	14,366	16,594	0.9%
Warehousing and Storage	8,156	2,692	5,838	0.3%
Publishing, Software, Data Processing	51,736	14,336	14,717	0.8%
Telecommunications	45,384	26,302	18,955	1.0%
Financial Activities	209,600	42,268	197,440	10.8%
Real Estate	132,981	93,300	34,431	1.9%
Professional Services	209,599	68,564	94,200	5.2%
Management of Companies	170,685	14,768	97,189	5.3%
Administrative and Support Services	49,999	29,564	2,916	0.2%
Waste Management Services	5,659	2,449	2,631	0.1%
Educational Services	7,532	5,534	2,144	0.1%
Health Services	55,280	60,698	22,088	1.2%
Arts, Entertainment and Recreation	9,915	6,513	5,104	0.3%
Accommodation	15,453	6,297	4,754	0.3%
Food Services (includes restaurants)	39,579	19,675	21,310	1.2%
Other Services	44,031	22,386	21,127	1.2%
Unclassified	36,601	-	11,506	0.6%
Total	\$2,967,665	\$937,503	\$1,825,875	100.0%

* Global Insight

** <http://www.bizstats.com/corporations.asp?profType=income>

Source: Texas Comptroller of Public Accounts

Table 9 (cont.)

Industry	Share of Tax Paid	Share of Gross State Product	U.S. Ten Year Forecast Job Growth Rate*	Net Profit Percent of Receipts**
Agriculture	0.5%	0.8%	-	8.65%
Mining (Oil & Gas)	16.1%	11.1%	(2.55%)	19.83%
Utilities	4.0%	4.0%	(1.59%)	8.00%
Construction	3.8%	6.0%	2.04%	6.53%
Manufacturing	18.2%	15.6%	0.64%	8.68%
Wholesale Trade	11.9%	7.4%	1.40%	4.21%
Retail Trade	6.9%	7.2%	0.24%	4.33%
Air Transportation	0.1%	0.7%	2.41%	3.53%
Truck Transportation	0.5%	1.1%	2.41%	4.98%
Rail Transportation	0.1%	0.3%	2.41%	13.28%
Water and Other Transportation	1.0%	1.5%	2.41%	7.29%
Warehousing and Storage	0.3%	0.3%	2.41%	9.44%
Publishing, Software, Data Processing	1.7%	1.5%	0.68%	13.37%
Telecommunications	1.5%	2.8%	0.68%	13.31%
Financial Activities	7.1%	4.5%	(0.69%)	19.34%
Real Estate	4.5%	10.0%	0.39%	16.06%
Professional Services	7.1%	7.3%	1.94%	9.65%
Management of Companies	5.8%	1.6%	(1.27%)	15.17%
Administrative and Support Services	1.7%	3.2%	6.12%	6.37%
Waste Management Services	0.2%	0.3%	4.73%	8.19%
Educational Services	0.3%	0.6%	(0.56%)	11.88%
Health Services	1.9%	6.5%	1.86%	9.50%
Arts, Entertainment and Recreation	0.3%	0.7%	0.49%	13.46%
Accommodation	0.5%	0.7%	0.59%	8.98%
Food Services (includes restaurants)	1.3%	2.1%	0.59%	7.23%
Other Services	1.5%	2.4%	0.04%	7.29%
Unclassified	1.2%	-	-	-
Total	100%	100%	1.18%	-

Table 10
Business Tax Advisory Committee
Tax Paid as a Percentage of Texas Revenue by Industry and by Size of Business
Report Year 2007

Italics: Most firms in this sector will use COGS deduction.

Industry	Total Industry	0 - 0.5 mil.	0.5 - 1 mil.	1 - 5 mil.	5 - 10 mil.	10 - 50 mil.
Agriculture	0.215%	0.419%	0.354%	0.253%	0.181%	0.141%
Mining (Oil & Gas)	0.158%	0.733%	0.668%	0.582%	0.564%	0.572%
Utilities	0.211%	0.434%	0.399%	0.321%	0.752%	0.159%
Construction	0.145%	0.273%	0.191%	0.141%	0.133%	0.135%
Manufacturing	0.162%	0.288%	0.253%	0.196%	0.221%	0.261%
Wholesale Trade*	0.135%	0.277%	0.198%	0.147%	0.143%	0.155%
Retail Trade*	0.102%	0.197%	0.154%	0.110%	0.100%	0.087%
Air Transportation	0.138%	0.500%	0.101%	0.132%	0.115%	0.116%
Truck Transportation	0.136%	0.205%	0.160%	0.132%	0.109%	0.201%
Rail Transportation	0.570%	1.694%	0.141%	0.443%	D	0.728%
Water and Other Transportation	0.184%	0.237%	0.234%	0.154%	0.260%	0.194%
Warehousing and Storage	0.140%	0.307%	0.370%	0.219%	0.290%	0.222%
Publishing, Software, Data Processing	0.352%	0.352%	0.251%	0.236%	0.366%	0.338%
Telecommunications	0.239%	0.341%	0.253%	0.173%	0.239%	0.273%
Financial Activities	0.106%	0.604%	0.524%	0.382%	0.374%	0.398%
Real Estate	0.386%	0.690%	0.614%	0.469%	0.379%	0.390%
Professional Services	0.223%	0.446%	0.294%	0.204%	0.208%	0.214%
Management of Companies	0.176%	0.901%	0.725%	0.487%	0.410%	0.383%
Administrative and Support Services	0.167%	0.396%	0.238%	0.155%	0.146%	0.141%
Waste Management Services	0.215%	0.293%	0.215%	0.233%	0.163%	0.275%
Educational Services	0.351%	0.348%	0.262%	0.167%	0.335%	0.262%
Health Services	0.250%	0.321%	0.225%	0.207%	0.216%	0.171%
Arts, Entertainment and Recreation	0.194%	0.274%	0.286%	0.209%	0.222%	0.248%
Accommodation	0.325%	0.388%	0.439%	0.483%	0.685%	0.218%
Food Services (includes restaurants)*	0.186%	0.159%	0.172%	0.178%	0.171%	0.157%
Other Services	0.208%	0.239%	0.196%	0.168%	0.207%	0.216%
Unclassified	0.318%	0.488%	0.443%	0.396%	0.388%	0.315%
Total	0.160%	0.378%	0.273%	0.199%	0.194%	0.201%

**Most firms in this sector will pay half rate.*

D – Confidentiality restrictions prohibit disclosure of data in these cells.

Source: Texas Comptroller of Public Accounts

Table 10 (cont.)*Gross Receipts Category in dollars*

Industry	50 - 100 mil.	100 - 250 mil.	250 mil. - 1 bil.	1 bil. - 5 bil.	5 bil. - 10 bil.	Over 10 bil.
Agriculture	0.057%	0.012%	0.400%	0.106%	-	-
Mining (Oil & Gas)	0.550%	0.472%	0.593%	0.662%	D	0.106%
Utilities	0.302%	0.146%	0.155%	0.352%	0.197%	0.176%
Construction	0.140%	0.188%	0.149%	0.094%	0.154%	D
Manufacturing	0.283%	0.276%	0.255%	0.239%	0.152%	0.115%
Wholesale Trade*	0.145%	0.152%	0.151%	0.131%	0.183%	0.081%
Retail Trade*	0.062%	0.099%	0.143%	0.097%	0.116%	0.095%
Air Transportation	0.242%	0.126%	0.166%	0.117%	0.914%	D
Truck Transportation	0.087%	0.111%	0.113%	0.107%	D	-
Rail Transportation	-	0.564%	D	-	-	D
Water and Other Transportation	0.255%	0.257%	0.228%	0.145%	D	D
Warehousing and Storage	0.118%	0.166%	0.323%	0.079%	D	D
Publishing, Software, Data Processing	0.521%	0.352%	0.288%	0.492%	0.269%	D
Telecommunications	0.195%	0.156%	0.325%	0.428%	D	0.195%
Financial Activities	0.332%	0.367%	0.302%	0.366%	0.195%	0.043%
Real Estate	0.350%	0.391%	0.570%	0.228%	D	0.088%
Professional Services	0.244%	0.268%	0.259%	0.240%	0.127%	0.194%
Management of Companies	0.223%	0.228%	0.208%	0.163%	0.143%	0.059%
Administrative and Support Services	0.198%	0.108%	0.187%	0.134%	0.232%	D
Waste Management Services	0.195%	0.096%	0.205%	D	-	-
Educational Services	0.338%	0.377%	0.587%	D	-	-
Health Services	0.347%	0.443%	0.246%	0.262%	-	-
Arts, Entertainment and Recreation	0.217%	0.243%	0.106%	D	-	-
Accommodation	0.402%	0.268%	0.153%	0.257%	D	-
Food Services (includes restaurants)*	0.140%	0.108%	0.197%	0.288%	D	-
Other Services	0.285%	0.196%	0.180%	0.382%	-	D
Unclassified	0.236%	0.259%	0.143%	0.091%	D	D
Total	0.198%	0.207%	0.227%	0.210%	0.167%	0.097%

Table 11
How Franchise Tax Burden Reflects the Economy
by Industry Before and After Margin Tax Base

Italics: Most firms in this sector will use COGS deduction.

Industry	Pre-Margin % Tax Paid	Share of 2006 GSP	Margin Base % Tax Paid	Share of 2008 GSP	Pre-Margin Share Diff. (Tax - GSP)	Margin Base Share Diff. (Tax - GSP)
<i>Agriculture</i>	0.49%	0.79%	0.31%	0.91%	(0.29%)	(0.60%)
<i>Mining (Oil & Gas)</i>	16.11%	11.14%	10.10%	12.89%	4.97%	(2.79%)
<i>Utilities</i>	4.03%	4.00%	3.68%	3.89%	0.04%	(0.21%)
<i>Construction</i>	3.79%	5.97%	4.40%	5.48%	(2.19%)	(1.08%)
<i>Manufacturing</i>	18.21%	15.56%	17.12%	14.79%	2.65%	2.33%
<i>Wholesale Trade*</i>	11.91%	7.36%	7.74%	7.11%	4.55%	0.63%
<i>Retail Trade*</i>	6.89%	7.22%	8.11%	6.70%	(0.32%)	1.40%
Air Transportation	0.11%	0.73%	0.22%	0.71%	(0.62%)	(0.48%)
Truck Transportation	0.49%	1.07%	0.82%	1.05%	(0.58%)	(0.23%)
Rail Transportation	0.13%	0.33%	0.11%	0.31%	(0.20%)	(0.20%)
Water and Other Transportation	1.03%	1.53%	1.68%	1.47%	(0.51%)	0.21%
Warehousing and Storage	0.27%	0.29%	0.28%	0.29%	(0.01%)	(0.01%)
Publishing, Software, Data Processing	1.74%	1.53%	2.36%	1.40%	0.21%	0.96%
Telecommunications	1.53%	2.81%	3.81%	2.91%	(1.28%)	0.90%
Financial Activities	7.06%	4.51%	5.13%	4.38%	2.55%	0.75%
Real Estate	4.48%	9.95%	6.57%	9.75%	(5.47%)	(3.17%)
Professional Services	7.06%	7.31%	9.15%	7.76%	(0.25%)	1.39%
Management of Companies	5.75%	1.58%	5.80%	1.78%	4.18%	4.01%
Administrative and Support Services	1.68%	3.15%	2.04%	3.30%	(1.47%)	(1.27%)
Waste Management Services	0.19%	0.26%	0.43%	0.26%	(0.07%)	0.17%
Educational Services	0.25%	0.59%	0.34%	0.60%	(0.34%)	(0.27%)
Health Services	1.86%	6.47%	3.92%	6.47%	(4.61%)	(2.55%)
Arts, Entertainment and Recreation	0.33%	0.69%	0.64%	0.68%	(0.36%)	(0.04%)
Accommodation	0.52%	0.67%	0.96%	0.65%	(0.15%)	0.30%
Food Services (includes restaurants)*	1.33%	2.10%	1.42%	2.09%	(0.76%)	(0.67%)
Other Services	1.48%	2.39%	1.70%	2.34%	(0.90%)	(0.64%)
Unidentified Industry	1.23%		1.16%			
Total	100.00%	100.00%	100.00%	100.00%		
Average diff. between tax and share of economy					1.52%	1.05%
Weighted Average Variation					2.82%	1.74%
Percent Improvement in how tax reflects economy					38.00%	

**Most firms in this sector will pay half rate.
Source: Texas Comptroller of Public Accounts*

Chart 1
Percent Difference between Share of Tax Paid and Share of Economy
by Industry Before and After Margin Base

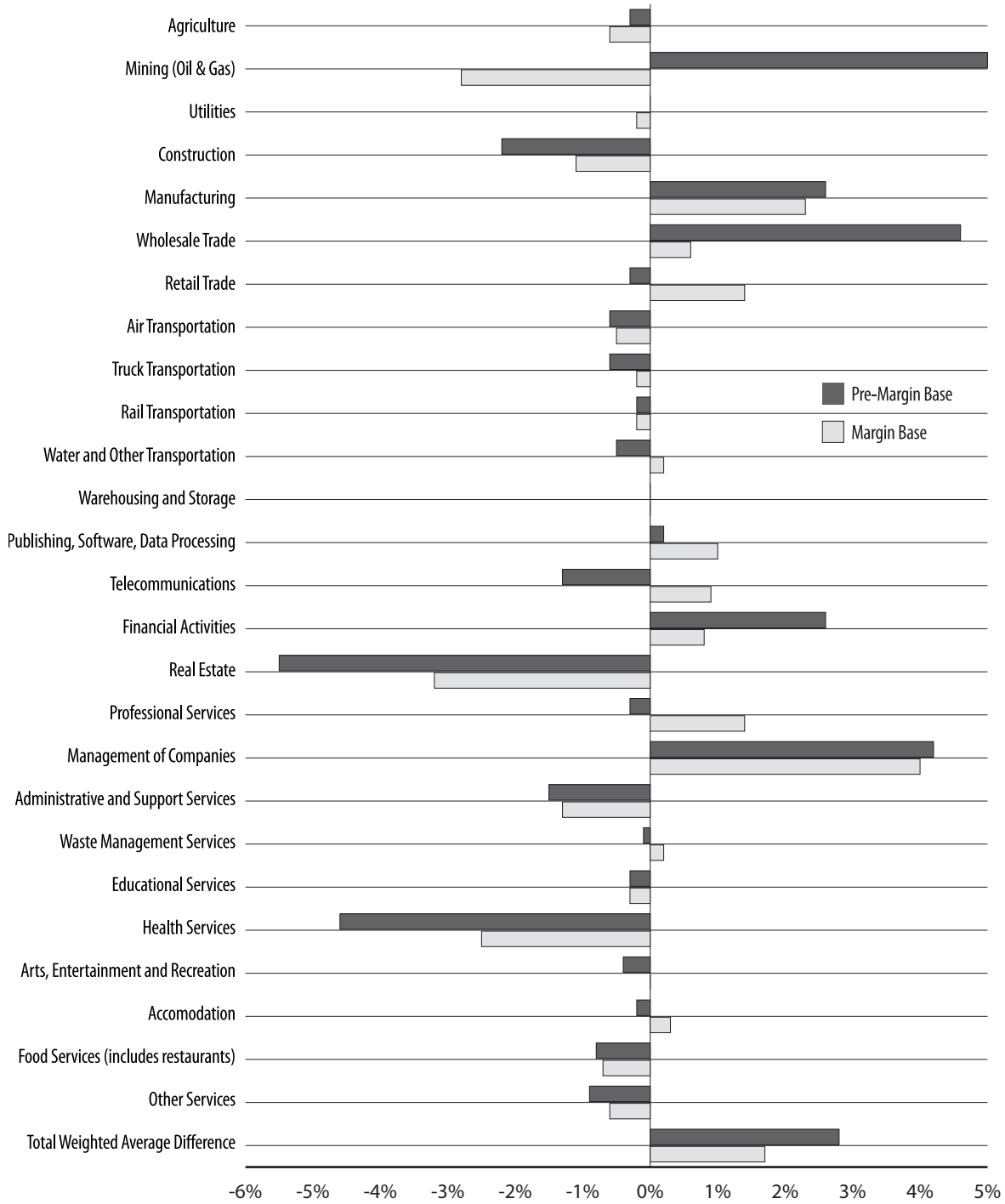


Table 12
State Direct Taxes and Fees on Business 2009

State	Corporate Income Tax Rate 2010	Corporate Income Tax	Other Direct Business Taxes and Fees	Total Business Taxes and Fees
United States		40,264,935	23,111,249	63,376,184
Alabama	6.50%	493,972	228,052	722,024
Alaska	1%-9.4%	632,123	38,793	670,916
Arizona	6.97%	592,187	143,479	735,666
Arkansas	1%-6.5%	346,215	137,065	483,280
California	8.84%	9,535,679	4,497,518	14,033,197
Colorado	4.63%	329,545	47,677	377,222
Connecticut	7.50%	444,061	111,299	555,360
Delaware	8.70%	208,677	950,779	1,159,456
Florida	5.50%	1,836,800	454,991	2,291,791
Georgia	6.00%	694,717	103,092	797,809
Hawaii	4.4%-6.4%	78,597	27,792	106,389
Idaho	7.60%	142,240	64,331	206,571
Illinois	7.30%	2,752,353	847,057	3,599,410
Indiana	8.50%	838,974	44,362	883,336
Iowa	6%-12%	264,365	139,668	404,033
Kansas	4%-7.05%	370,889	79,390	450,279
Kentucky	4%-6%	389,634	197,831	587,465
Louisiana	4%-8%	612,545	336,211	948,756
Maine	3.5%-8.93%	143,086	110,737	253,823
Maryland	8.25%	749,001	203,402	952,403
Massachusetts	8.80%	1,789,553	243,765	2,033,318
Michigan	NA	NA	2,679,375	2,679,375
Minnesota	9.80%	779,055	338,311	1,117,366
Mississippi	3%-5%	324,301	200,378	524,679
Missouri	6.25%	278,661	236,973	515,634
Montana	6.75%	164,255	95,368	259,623
Nebraska	5.58%-7.81%	198,442	49,578	248,020
Nevada	NA	NA	514,605	514,605
New Hampshire	NA	NA	585,834	585,834
New Jersey	6.5%-9%	2,397,471	776,217	3,173,688
New Mexico	4.8%-7.6%	203,584	34,749	238,333
New York	7.10%	4,427,675	316,631	4,744,306
North Carolina	6.90%	901,445	708,520	1,609,965
North Dakota	2.1%-6.4%	129,542	42,660	172,202
Ohio	5.1%-8.5% (1.02%-1.70%) with full phase out by 2010	521,363	1,857,970	2,379,333
Oklahoma	6.00%	342,762	141,591	484,353
Oregon	6.6%-7.9%	258,778	311,889	570,667
Pennsylvania	9.99%	1,740,532	1,433,030	3,173,562
Rhode Island	9.00%	108,497	40,606	149,103
South Carolina	5.00%	219,484	217,246	436,730
South Dakota	NA	NA	152,564	152,564
Tennessee	6.50%	816,261	799,086	1,615,347
Texas	NA	NA	5,062,058	5,062,058
Utah	5.00%	245,880	48,983	294,863
Vermont	6%-8.5%	86,759	18,306	105,065
Virginia	6.00%	633,490	223,833	857,323
Washington	NA	NA	2,930,109	2,930,109
West Virginia	8.50%	420,530	45,563	466,093
Wisconsin	7.90%	629,524	192,343	821,867
Wyoming	NA	NA	32,383	32,383
Totals (U.S.)		39,073,504	29,094,050	68,167,554

Sources: U.S. Census Bureau; Commerce Clearinghouse; State Annual Reports

Table 12 (cont.)

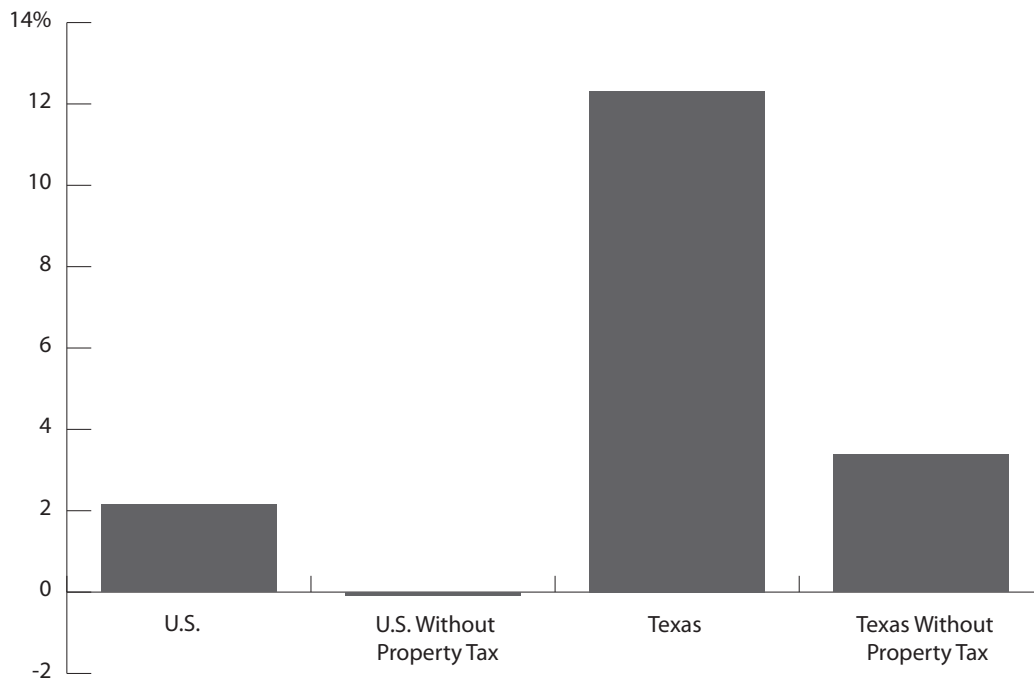
State	Total Taxes	Direct Business Taxes and fees % of all Taxes	2007 percentage	Difference 2009 and 2007
United States	715,170,681	8.9%	10.4%	(1.5%)
Alabama	8,306,446	8.7%	8.2%	0.5%
Alaska	4,953,342	13.5%	24.5%	(11.0%)
Arizona	11,249,830	6.5%	8.8%	(2.3%)
Arkansas	7,467,679	6.5%	6.5%	(0.0%)
California	101,007,459	13.9%	13.6%	0.3%
Colorado	8,682,822	4.3%	5.7%	(1.4%)
Connecticut	12,927,619	4.3%	7.2%	(2.9%)
Delaware	2,806,031	41.3%	40.2%	1.1%
Florida	31,956,841	7.2%	8.1%	(0.9%)
Georgia	16,077,948	5.0%	6.5%	(1.5%)
Hawaii	4,712,651	2.3%	2.6%	(0.3%)
Idaho	3,171,863	6.5%	7.0%	(0.5%)
Illinois	29,268,349	12.3%	12.8%	(0.5%)
Indiana	14,900,123	5.9%	7.3%	(1.4%)
Iowa	6,984,279	5.8%	7.0%	(1.2%)
Kansas	6,694,630	6.7%	8.8%	(2.1%)
Kentucky	9,755,544	6.0%	11.9%	(5.9%)
Louisiana	10,014,637	9.5%	10.7%	(1.2%)
Maine	3,489,105	7.3%	7.9%	(0.6%)
Maryland	15,126,893	6.3%	6.6%	(0.3%)
Massachusetts	19,482,884	10.4%	11.1%	(0.7%)
Michigan	23,556,988	11.4%	8.2%	3.2%
Minnesota	17,161,299	6.5%	8.4%	(1.9%)
Mississippi	6,514,769	8.1%	9.0%	(0.9%)
Missouri	10,345,250	5.0%	5.9%	(0.9%)
Montana	2,407,400	10.8%	11.5%	(0.7%)
Nebraska	4,000,939	6.2%	7.0%	(0.8%)
Nevada	5,564,170	9.2%	8.0%	1.2%
New Hampshire	2,125,722	27.6%	31.5%	(3.9%)
New Jersey	27,186,553	11.7%	13.0%	(1.3%)
New Mexico	4,851,689	4.9%	8.7%	(3.8%)
New York	65,029,871	7.3%	8.9%	(1.6%)
North Carolina	20,496,106	7.9%	9.4%	(1.5%)
North Dakota	2,414,010	7.1%	10.5%	(3.4%)
Ohio	23,952,422	9.9%	10.2%	(0.3%)
Oklahoma	8,160,670	5.9%	9.1%	(3.2%)
Oregon	7,419,494	7.7%	8.9%	(1.2%)
Pennsylvania	30,071,179	10.6%	12.3%	(1.7%)
Rhode Island	2,586,184	5.8%	7.8%	(2.0%)
South Carolina	7,146,034	6.1%	6.0%	0.1%
South Dakota	1,333,835	11.4%	12.3%	(0.9%)
Tennessee	10,442,552	15.5%	17.8%	(2.3%)
Texas	40,786,857	12.4%	9.9%	2.5%
Utah	5,422,858	5.4%	7.5%	(2.1%)
Vermont	2,505,665	4.2%	4.5%	(0.3%)
Virginia	16,199,102	5.3%	7.9%	(2.6%)
Washington	16,408,838	17.9%	16.8%	1.1%
West Virginia	4,788,926	9.7%	12.7%	(3.0%)
Wisconsin	14,490,714	5.7%	8.6%	(2.9%)
Wyoming	2,763,610	1.2%	1.4%	(0.2%)
Totals (U.S.)	715,170,681	9.5%	10.4%	(0.9%)

Table 13
Ten Most Populous States Only -State and Local Business Tax Burden

State	FY 2009			FY 2007			Change 2007-09		
	State and Local Bus. Share	Bus Taxes % of GSP	Total Taxes % of GSP	State and Local Bus. Share	Bus Taxes % of GSP	Total Taxes % of GSP	State and Local Bus. Share	Bus Taxes % of GSP	Total Taxes % of GSP
California	44.6%	4.7%	10.5%	41.4%	4.7%	11.3%	3.2%	0.0%	(0.8%)
Texas	60.6%	4.9%	8.1%	60.3%	5.0%	8.3%	0.3%	(0.1%)	(0.2%)
New York	43.0%	5.5%	12.8%	42.4%	6.4%	15.1%	0.6%	(0.9%)	(2.3%)
Florida	49.7%	5.3%	10.7%	46.2%	4.9%	10.6%	3.5%	0.4%	0.1%
Illinois	43.3%	4.6%	10.6%	46.8%	5.1%	10.9%	(3.5%)	(0.5%)	(0.3%)
Pennsylvania	41.6%	4.6%	11.1%	42.0%	5.1%	12.2%	(0.4%)	(0.5%)	(1.1%)
Ohio	44.1%	5.1%	11.6%	41.1%	4.5%	10.9%	3.0%	0.6%	0.7%
Michigan	42.1%	5.0%	11.9%	43.7%	5.1%	11.7%	(1.6%)	(0.1%)	0.2%
Georgia	43.7%	4.1%	9.4%	41.6%	4.2%	10.1%	2.1%	(0.1%)	(0.7%)
North Carolina	37.7%	3.5%	9.3%	36.9%	3.9%	10.6%	0.8%	(0.4%)	(1.3%)
United States	45.4%	4.7%	10.3%	44.1%	5.0%	11.3%	1.3%	(0.3%)	(1.0%)

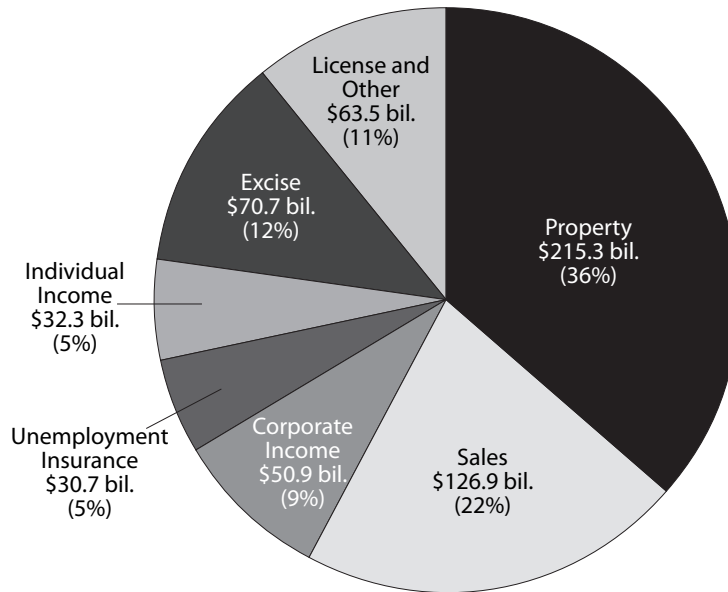
Sources: Ernst & Young; Bureau of Labor Statistics and U.S. Census Bureau

Chart 2
2007-2009 Percent Change in Taxes paid by Business



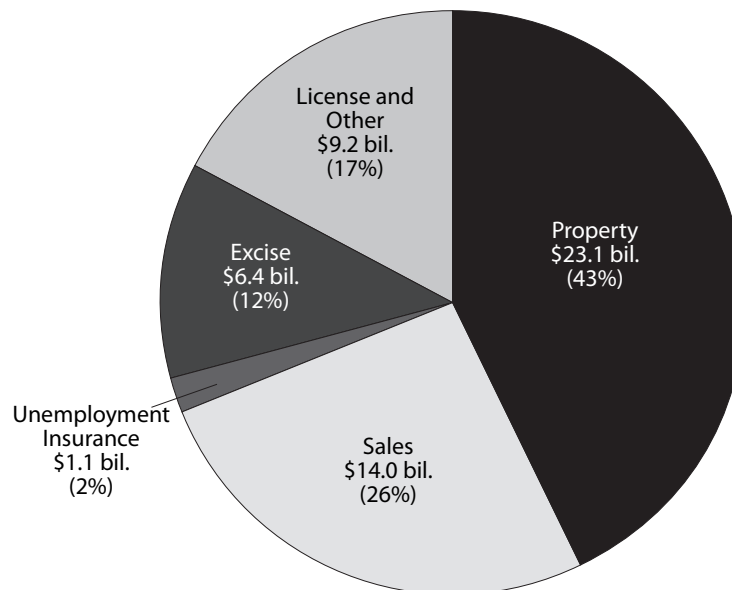
Source: Ernst & Young Total State and Local Business Taxes Fiscal 2009.

Chart 3
U. S. State and Local Business Taxes
Fiscal 2009 (\$Billion)



Source: Ernst & Young Total State and Local Taxes Fiscal 2009.

Chart 4
Texas State and Local Business Taxes
Fiscal 2009 (\$Billion)



Source: Ernst & Young Total State and Local Business Taxes Fiscal 2009.

Table 14
States with General Business Taxes that Apply to Most Forms of Business (\$ thousands)

State	Fiscal 2009 Tax Rate and Base	FY 2009 Revenue (unless Otherwise Noted)	Total Tax	Revenue as % of All Tax	Small Business Provisions
Delaware	0.1037% to 2.0736% Gross Receipts Tax (up from 0.077%-1.476%)	\$181,600	\$2,806,031	6.5%	First \$80,000 (up from \$60,000 in 2007) in gross receipts per month is not taxable for most industries. First \$1 million per month for manufacturers not taxable.
District of Columbia	9.975% of taxable net income	126,460	5,294,742	2.4%	Unincorporated businesses with less than \$12,000 per year in gross income are exempt from filing. (Revenue figures include only unincorporated business franchise tax, not corporate franchise tax)
Kentucky	Annual limited liability entity tax of lesser or 0.95% gross receipts or 7.5% gross profits	82,531	9,755,544	0.8%	Tax is zero for entities with less than \$3 million in gross receipts and gross profits. Reduced tax between \$3 million and \$6 million. Minimum tax of \$175 regardless of exemptions
Michigan	4.95% on business income plus 0.80 percent on modified gross receipts with a 21.99% tax surcharge until 2016	2,602,517	23,556,988	11.0%	Taxpayers with less than \$350,000 of Michigan gross receipts are exempt with a phase-in between \$350,000 and \$700,000. In addition a small business credit is available for taxpayers with gross receipts of \$20 million or less, adjusted business income of \$1.3 million or less and officer compensation of \$180,000 or less.
New Hampshire	0.75% Business Enterprise Tax (BET is modified additive VAT) and 8.5% Business Profits Tax (BPT includes credit for BET paid)	FY 09 Cash Basis: BPT: \$305,498 BET: \$174,856	2,125,722	22.6%	BET: No tax if annual gross receipts less than \$150,000 and enterprise value tax base less than \$75,000. BPT: organizations with \$50,000 or less of gross business income are not required to file a return
New Jersey	\$500-\$2,000 minimum tax levied on gross receipts as part of Corporation Business Tax levied on net income	Part of \$2,665,162 of FY 09 corporate business income tax collections. Not accounted for separately.	27,186,553	NA	\$500 -- Less than \$100,000 Gross Receipts; Rate increases in stages to maximum of \$2,000 at greater than \$1 million in gross receipts.
Ohio	Commercial Activity Tax (CAT) permanent rate of .26% fully phased in on April 1, 2009	926,678 at 0.156% phased in FY 08 rate	23,952,422	3.9%	No tax due up to \$150,000 in annual gross receipts and flat tax of \$150 between \$150,000 and \$1 million in annual gross receipts.
Texas	0.5% and 1% on margin	4,250,332	37,822,453	11.2%	For report years 2010 and 2011 no tax due up to \$1 million in total revenue or \$1,000 tax liability.
Tennessee	0.25% of the greater of net worth or real & tangible personal property and 6.5% of net income	1,340,946	10,442,552	12.8%	Tax does not apply to sole proprietorships
Washington	0.13-3.3% Business and Occupation (Gross Receipts) Tax. 0.484% most frequent rate. Rate varies by business classification, i.e., 1.8% on services.	2,650,526	16,408,838	16.2%	Small business credit of \$71 per month, reduced for firms whose tax exceeds credit
Total General Business Taxes		\$12,641,944	\$132,165,292	9.6%	**“Revenue as % of all tax” excludes NJ

Sources: U.S. Census Bureau; State Annual Reports

Table 15
Combined Reporting, Throwback, and Apportionment

State	Mandatory Combined Reporting	Throwback	Combined Reporting and Throwback	Combined Reporting and No Throwback	Apportionment Standard Combined Reporting	Apportionment Sales Factor 50% or more
Alabama		x				
Alaska	x	x	x		Joyce	
Arizona	x			x	Finnigan	x
Arkansas		x				x
California	x	x	x		Joyce (Finnigan after 1/1/2011)	x
Colorado	x	x	x		Joyce	x
Connecticut						x
Delaware						
Florida						x
Georgia						x
Hawaii	x	x	x		Joyce	
Idaho	x	x	x		Joyce	x
Illinois	x	x	x		Joyce	x
Indiana		x				x
Iowa						x
Kansas	x	x	x		Finnigan	
Kentucky						x
Louisiana						x
Maine	x	x	x		Joyce	x
Maryland						x
Massachusetts	x	x	x		Finnigan	x
Michigan	x			x	Finnigan	x
Minnesota	x			x	Joyce	x
Mississippi		x				
Missouri		x				
Montana	x	x	x		Joyce	
Nebraska	x			x	Finnigan	x
Nevada	NA	NA	NA	NA		NA
New Hampshire	x	x	x		Joyce	x
New Jersey						x
New Mexico		x				x
New York	x			x	Joyce	x
North Carolina						x
North Dakota	x	x	x		Joyce	
Ohio						x
Oklahoma		x				x
Oregon	x	x	x		Joyce	x
Pennsylvania						x
Rhode Island						x
South Carolina						x
South Dakota	NA	NA	NA	NA		NA
Tennessee						x
Texas	x			x	Joyce	x
Utah	x	x	x		Finnigan	
Vermont	x	x	x		Joyce	x
Virginia						x
Washington	NA	NA	NA	NA		NA
West Virginia	x			x	Joyce	x
Wisconsin	x	x	x		Finnigan	x
Wyoming	NA	NA	NA	NA		NA
Total	23	23	16	7	16 Joyce 7 Finnigan	36

Sources: 2010 Multistate Corporate Tax Guide; Various State Tax Departments

Table 16
Texas Business Climate Ratings
2009 and Before and After Enactment of the Margin Tax

	Rank or Grade		
	Before	After	2009
Top State Business Climate Rankings <i>Site Selection Magazine</i>	2	2	2
State Business Climate Index <i>Tax Foundation</i>	6	8	11
Small Business Survival Index <i>Small Business and Entrepreneurship Council</i>	11	9	3
Metro Area and State Competitiveness Report <i>Beacon Hill Institute</i>	22	20	24
Fiscal Policy Report Card on America's Governors <i>Cato Institute</i>	B	B	B
The State New Economy Index <i>Kauffman Foundation</i>	3	2	not available

Source: Compiled by Texas Comptroller of Public Accounts.

Table 17
Texas Franchise Tax Revenue (\$billions)

Fiscal Year	Revenue (\$Bill)	Tax as Pct of GSP	Percent of All Taxes	
2005	\$2.17	0.23%	7.30%	Earned
2006	\$2.61	0.25%	7.80%	Surplus/
2007	\$3.14	0.28%	8.50%	Tax Cap
2008	\$4.45	0.37%	10.80%	
2009	\$4.25	0.35%	11.20%	Margin
2010	\$3.86	0.31%	10.90%	

Source: Texas Comptroller of Public Accounts.

Table 18
Texas Franchise Tax Margin Base
2008 and 2009 Report Year Results--Detailed Analysis

Expected	Estimated	Actual 2008	Actual 2009
Apportionment Ratio	6.52%	6.62%	NA*
Texas Revenue (\$bil.)	\$1,844	\$2,098	\$2,405
Overall Tax Rate	0.89%	0.89%	0.89%
Credits/Discounts	\$380 mil.	\$370 mil.	\$285 mil.

Unexpected	Estimated	Actual 2008	Actual 2009
Percentage of Texas Revenue Reported Using COGS (1,844 billion Est.) (\$2,098 billion Actual)	80%	85%	86%
Deduction Share of COGS Deductors	68%	82%	84%
Deduction Share for Compensation Deductors	45%	55%	55%
Annual Cost of Temporary Credit	\$40 mil.	\$80 mil.	\$80 mil.

* Updated federal data needed for 2009 calculation.
Source: Texas Comptroller of Public Accounts.

Table 19
2009 Texas Franchise Tax Paid by Deduction Type (\$mil.)

Deduction	Tax Paid	Deduction as Percent of Total Revenue
COGS	\$2,667	84%
70%	749	30%
Compensation	682	55%
EZ	239	43%*
Total	\$4,337	

*Percent equivalent deduction at one percent tax rate.
Source: Texas Comptroller of Public Accounts.

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